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DESPATCHES FROM UNITED STATES CONSULS IN SHANGHAI, 1847-1906

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INTRODUCTORY NOTE

The volume microcopied on this roll has the following backstrip title: "48 / Shanghai / June 3, 1901 / September 30, 1902 / Department / of State." It contains despatches, with enclosures, addressed to the Department of State from United States consular officials at Shanghai, China, between June 3, 1901, and September 30, 1902. The contents are registered on Roll 1 of the microcopy.

The volume is part of a body of records in the National Archives designated as Record Group No. 59, General Records of the Department of State. It is volume 48 of a series generally referred to as Consular Despatches, Shanghai.

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Consular Letters.

Shanghai

June 1, 1901

Sep. 30, 1902

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No. 4

Consulate-General of the United States,

Shanghai, June 3rd 1901. , 190 .

Mr. Goodnow

To the Department of State

Ans'd JUL 11 1901 Form.

Subject:

Am. Trading Co. vs Pac. Export Lbr Co.

Abstract of Contents

Evidence and decision enclosed.

Consular Bureau.
JUL 10 1901

No. 4

Consulate-General of the United States.

Shanghai, June 3rd 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith (duplicate) copies of evidence
2/ and judgment in the case of The American Trading Co.
versus The Pacific Export Lumber Co.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

2 enclosures.

U. S. CONSULAR COURT,

SHANGHAI, CHINA.

AMERICAN TRADING COMPANY

V.

PACIFIC EXPORT LUMBER COMPANY.

(Official Transcript of Proceedings.)

IN THE COURT OF THE U. S. CONSULATE-GENERAL AT SHANGHAI, IN CHINA.

Before J. GOODNOW, Esq., *Consul-General acting Judicially.*

SHANGHAI, 3rd May, 1901.

THE AMERICAN TRADING COMPANY

v.

THE PACIFIC EXPORT LUMBER COMPANY.

Mr. E. Nelson (Messrs. Stokes and Platt) appeared for the plaintiffs, and Mr. D. McNeill (Messrs. Dowdall, Hanson and McNeill) and Mr. F. Ellis (Messrs. Browett and Ellis) appeared for the defendants.

His Honour—I take it you desire to apply for leave to serve certain interrogatories?

Mr. Ellis—That is so. Mr. McNeill is now leading me in this case and he makes the application on behalf of the defendant company.

Mr. McNeill—I have to ask you to allow me to appear on behalf of the defendant company in this case.

His Honour—Very well. You are both appearing?

Mr. Ellis—Yes, your Honour.

Mr. McNeill—This is an application for permission to administer certain interrogatories to Captain Iliff who was the master of the s.s. Elm Branch. These interrogatories, I believe, have already been submitted to your Honour?

His Honour—I have not seen them. Mr. Nelson, for the sake of saving time, do you propose to object to them?

Mr. Nelson—I propose to object that they should be administered now.

His Honour—You propose to object?

Mr. Nelson—To any interrogatories.

His Honour—Are there any of these interrogatories upon which you gentlemen are agreed as to the facts?

Mr. Nelson—I have not been approached.

His Honour—It does seem to me you could save the time of the Court by agreeing to certain of these, and then making the application in regard to the others.

Mr. McNeill—I agree with what you say. I think there are certainly some of them to which Mr. Nelson will agree.

His Honour—Very well, the Court will adjourn for fifteen minutes.

Mr. Nelson—I have got a copy, and I think I am prepared to admit certain things if I am asked to.

His Honour—Very well, go into the other room, and the Court will adjourn for fifteen minutes.

The parties accordingly retired, and upon returning,

Mr. McNeill said—We have not got very far, I am afraid. We have reached a certain point. What we have done is to go through the questions and see whether in view of certain admissions Mr. Nelson was prepared to make we were able to strike out any questions. A certain number of questions have been dealt with and we are prepared to take them out because the admissions of Mr. Nelson have rendered them unnecessary. As to the other questions, Mr. Nelson has not been able to make admissions, and we are not prepared to strike them out. At a certain point he stated he was not prepared to answer any more questions in the matter, and so we returned. I may mention them at once to you.

His Honour—I will hear you on the general proposition. There is no need to go into a multitude of questions—into the full particulars of the questions. I will hear you on the specific points you desire to gather by this witness.

Mr. McNeill—With regard to the necessity of administering these interrogatories to Capt. Iliff, you are aware that he was the master of the vessel at the time she was concerned in this transaction. She arrived at Chefoo on the date mentioned in the petition and answer, and there certain transactions took place, with regard to which the only knowledge the defendant company has is to be derived from the evidence to be given by Capt. Iliff, and on this point I wish to explain, there was a claim for demurrage presented, as alleged in the amended answer, and while that claim was still pending certain proposals were made by the plaintiff company for the transhipment, as alleged in the amended answer, of a portion of the cargo to Talienwan. These proposals were discussed while this claim for demurrage was still pending, and, as a result, a final settlement was arrived at as to the amount of demurrage due, and that sum was paid over. In connection with that the only evidence which the defendant company has at its disposal is the evidence of Capt. Iliff who was in direct negotiation with the Agents of the plaintiff company at Chefoo, who received instructions, and, of course, he only can testify he received them and that he acted upon them, and he is the only person who can say he acted upon them, and in regard to this payment of £900, a part only of the sum now claimed from the defendant company, he is the only person who can testify. With regard to that he is an essential witness. There appears to be a dispute as to the facts. The petition alleges a sum of £1,300 was paid under protest. The answer denies the payment under protest, as alleged, and says that after discussion a settlement in regard to a sum of £900 was arrived at with regard to which there had previously been a protest, and finally there was a protest for the balance of £300 odd.

Mr. Nelson—The agents for the American Trading Company were Messrs. Fergusson & Co. of Chefoo, whose evidence would be very easy to obtain. They were concerned in the whole matter and directed the ship as usual. The custom in the shipping business is that in each port a ship has an agent for financing the ship; the captain wants so many hundreds of dollars, and he goes to them. In this question the Elm Branch had an agent, and their agent was Fergusson and Co., of Chefoo. They know the whole of what took place, and I have Mr. Epperly here.

His Honour—The Elm Branch had an agent?

Mr. Nelson—Messrs. Fergusson and Co.

His Honour—Who was the agent of your company?

Mr. Nelson—Mr. Epperly. He came from Shanghai to be the representative of the American Trading Co. The American Trading Company have no representative in Chefoo.

His Honour—Do you admit that Fergusson & Co. were the agents of the ship?

Mr. McNeill—For certain special purposes, but not for this at all. They were the agents of the Elm Branch for the purpose, possibly, of financing the master for such payments as the crew, and so on, but not for the purpose of making any arrangement as to the cargo. The documents, we say, show it.

Mr. Nelson does not seem to have touched the particular point on which we rely, which is that the actual negotiations in regard to this question of demurrage were, as a matter of fact, at any rate as alleged, conducted by Capt. Iliff on receipt of instructions.

His Honour—Were the transactions in writing?

Mr. McNeill—The transactions were partly in writing and partly verbal between Capt. Iliff and the agents on the other side. The only person who can testify that he received certain instructions and that he acted upon them—the only person it seems to me who can testify to that is the person who received those instructions. If you shut out that person there seems to be a break in the chain of events.

His Honour—Do you want to be heard on any other point?

Mr. McNeill—The second point with regard to which we consider that Capt. Iliff's evidence is necessary is this. At the end of the second paragraph, in the proposed amended answer is the allegation that the demurrage paid was paid in the ordinary course of business between the parties. Now it will be pointed out as part of our case that Capt. Iliff when in previous command of the same steamer had been concerned in similar cases of claims on demurrage, and demurrage had been paid upon a similar statement that cargo would be held until the demurrage was paid, and, of course, as regards what took place on previous voyages between himself and the charterers and present plaintiffs he is the only person who can give any testimony. The third point is with regard to what took place after the arrival of the steamer at Mororan. It is practically agreed that the steamer arrived at Mororan on a certain date, but as to what took place, there is, of course, no possibility of agreement on the other side because we declare the fullest notice of our movements was given and they declare they did not receive any such notice as we say was given

His Honour.—You say that notice was given?

Mr McNeill—It was given, I understand, by telegraph.

His Honour—At this coal port in Japan?

Mr McNeill—Yes, Mororan, in Japan.

His Honour—Notice was given by telegraph?

Mr. McNeill—Yes, by telegraph, and they deny they received any notice.

Mr. Nelson—That is not asked in the interrogatories.

His Honour—The fourth point?

Mr. McNeill—The fourth point is as to what took place on the arrival of the Elm Branch at Chefoo. With regard to the steps then taken, paragraph 6 of the answer deals entirely with the steps in detail which were taken after the arrival of the ship at Chefoo, and with regard to those actual steps we submit, of course, that the person who can state, from our side at any rate, what was done is the captain, and no other person With regard to the communications which were made to the owners and the rates at which demurrage would have to be paid and so on, practically the whole paragraph 6 deals with demurrage. The next paragraph is paragraph 7 of the amended answer, which deals with the dispute and the compromise arrived at therein in regard to the demurrage.

His Honour—Was the compromise arrived at in writiug?

Mr McNeill—It was not exactly in writing. That is to say, a request was made that the cargo should be transhipped to Talienwan. A reply telegram was sent back saying, "The cargo will be transhipped if you accept certain conditions" The cargo was verbally ordered to be carried to Talienwan, so that it was partly in writing and partly in verbal orders On this paragraph 7 it seems to me like a re-statement of the first point. This paragraph 7 goes fully into the details of this compromise, and of the subsequent payments made without any prejudice at all. The last point that is raised in the answer is that the ship was not unloaded in accordance with the contracts made between the plaintiffs and the defendants, or in accordance with the custom of the port. With regard to the actual carrying on of the unloading operations, there again we say the captain is the only person who can testify on our side, and we ask for his evidence to be taken.

His Honour—I would ask you before you sit down, the captain at present, I understand, is at Valparaiso?

Mr. McNeill—Will be there about the time a message would get there.

His Honour—Are there any other interrogatories to be applied for?

Mr. McNeill—Mr. Wheelwright. Of course the only object in forcing this on is that we have got the ship in a particular place on a particular date when these questions could be answered.

His Honour—Then if it is granted it will be necessary to postpone the case for, say, four months.

Mr. McNeill—Do you think we could fairly cross-examine the witnesses on the other side without knowing what our master has done? I do not think we could be fairly asked to cross-examine the witnesses on the other said without knowing what our own witnesses have to say.

His Honour—I will deny the motion for the present time. The case is now set down for the 14th. After you have gone into it as far as you can with the witnesses that you have and documents, then you can apply again.

Mr. McNeill—You will understand that we have no witnesses at all. These are merely allegations made by the charterers.

His Honour—I will deny this for the present time.

Mr. McNeill—I understand the motion is denied at present. When the case is at a later stage you will hear us again?

His Honour—My statement is, and I wish Mr O'Dowd to take a note of it, that the motion is denied at the present time. That is all my decision. I may say for your information and the information of both of you, if we get into this case and the case develops in such a shape that we find these interrogatories are necessary in justice, I will consider it again.

Mr. Wardle—May I be permitted to say that by that time we shall have lost connection with the master.

His Honour—Well, you had better write and get into connection with him.

The Court then adjourned.

SHANGHAI, 14th May, 1901.

Upon the case being resumed,

His Honour—I have here filed the petition and answer, and the amended answer. From the amended answer I will strike out paragraph 1. Please cancel that from the amended answer.

Mr. McNeill—Will you give a reason for that?

His Honour—Yes, I will. I will strike out paragraph 1. The first part of the paragraph is absolutely immaterial to this case. The second part I cannot consider under any circumstances in this Court. It is a denial that a service on Francis R. Wardle is a competent service. I have here before me at least two affidavits signed by him that he is the Vice-President of the Pacific Export Lumber Company. How then can I allow a paragraph to stand here that he is not for the purpose of this suit in that company?

Mr. McNeill—May I be allowed to say—

His Honour—I do not care for argument on the matter, Mr. McNeill. I will strike out paragraph 10 of the amended answer for this reason. It says, "the cause of controversy arose at Chefoo, aforesaid, and... damage complained of was sustained at the last mentioned place." In the first place the matter of jurisdiction has already been passed on by this Court, and I cannot allow the record to be encumbered with any argument on the question of jurisdiction when a decision on that has been given in this Court. In the second place, I would call attention to paragraphs 6 and 7 of the same amended answer. Paragraph 6, five or six lines from the bottom, says, "and the master of the said steamer Elm Branch immediately notified the plaintiff company that lay days should commence from the date of the arrival of the said steamer at Taku." Paragraph 7, six or seven lines from the bottom says, that after a dispute between the plaintiff company and the master of the Elm Branch as to the number of lay-days, a compromise agreement was reached. The beginning of the lay-days certainly affects the question of the actual days of demurrage. For these two reasons I will strike out paragraph 10 entirely—paragraphs 1 and 10. Mr. Reporter, you will note that the defendants entered an exception against striking out paragraphs, and 10.

Mr. Nelson—May I say a word with regard to another paragraph affected by one you struck out, that is paragraph 2; that seems to raise a controversy as to whether the money was paid out of the Shanghai office or not.

His Honour—I will let that stand.

Mr. McNeill—May I ask whether we shall be at liberty in spite of these paragraphs being struck out to adduce evidence in regard to them, when the time comes.

His Honour—No.

Mr. McNeill—I beg your Honour to allow that to be recorded at any rate.

His Honour—Mr. Reporter, you will note that Mr. McNeill asks if evidence will be allowed on the paragraphs which have been striken out by the Court, and the Court has answered no.

Mr. McNeill—With a view to an appeal on the question of jurisdiction.

His Honour—Wait, Mr. McNeill. Mr. McNeill asks if evidence can be taken on the paragraphs which have been stricken out by the Court for the purpose of appeal on the question of jurisdiction. The Court answered that no evidence could be taken on those paragraphs which had been stricken out. I have summoned as Assessors in this case, subject to proper challenge by the attorneys in this case, Mr. W. W. Rich, Consulting Engineer of the Chinese Railways, of this place, and Mr. C. E. Fiske, of the American Tobacco Co. of this place. I desire to know if there is any objection or any challenge. Do you desire to object to either of these Assessors?

Mr. McNeill and Mr. Nelson—No.

His Honour—Now section 1498 says:—(Section read) I think both parties to this suit appreciate the advantages of a settlement out of Court if it can possibly be done. I think it is apparent that if an arbitrator can be arrived at, or referees chosen, it is a better way to do it than by taking the matter into Court and pushing it through the form of legal proceedings. I would ask now if the parties to this action can agree upon an arbitrator or referee, or make an agreement of this case out of Court?

Mr Nelson—I would have to see my clients first.

Mr McNeill—I think the questions arising appear to us of such a kind as to be only properly considered by a Court having knowledge of the law governing shipping questions.

The Assessors were then duly sworn

His Honour—Mr Nelson, will you open the case?

Mr Nelson—I understand there is an application first

Mr. McNeill—Your Honour has read the application. Shall I read the application now? (Application read.) When that application was made your Honour adjourned the hearing of it to the hearing of the action and the application is now made upon an affidavit which has been filed with the Court by Mr. Francis R Wardle. If your Honour desires that I should read it also I will do so.

His Honour—I have read it.

Mr. McNeill—That affidavit sets out the reasons why we are desirous to examine Mr Wheelwright. Mr. Wheelwright was the person who originated the contract out of which this dispute has arisen. He was the person before whom the dispute came as soon as it originated. Upon his instructions the compromise, if there was a compromise, was arrived at, and throughout he has been solely concerned as an officer of the defendant company in the negotiations in the matter. I have nothing further at present to add beyond what is contained in this affidavit and I ask that a commission should issue.

His Honour—I should like to ask; the amended answer, as I understand, has been drawn under instructions from him?

Mr. McNeill—Yes.

His Honour—Mr. Wheelwright, at the time of sending that out, sent an affidavit or statement of facts with regard to the matter?

Mr. McNeill—He has not sent any affidavit. Of course you will understand we have received general instructions in the way of correspondence.

His Honour—Has Mr Wheelwright sent any statement as to what his testimony would be?

Mr McNeill—I think he has, and this answer is founded upon the testimony to be given by Mr. Wheelwright. I think after what you have heard you will know that the two people upon whose evidence we rely are the captain and Mr Wheelwright. Whatever the captain could not testify to appears in this answer as testimony to be given by Mr. Wheelwright.

His Honour—I will deny the motion at the present time, and allow the parties to put in their case as far as they can and then we can see, possibly, whether it will be necessary to take Mr. Wheelwright's testimony or whether the statement which he has

sent can be taken, and whether it will be necessary to cross-examine him upon it.

Mr. McNeill—I must, however, take exception to your ruling

His Honour—Note the exception, Mr. Reporter.

Mr. Nelson—I appear for the American Trading Company in the action brought by them against the Pacific Export Lumber Company. I will read the petition of the plaintiffs. (Petition read) If you will allow me, instead of the words "state of war" I will substitute "riots or other disturbances."

His Honour—Is there any objection?

Mr. McNeill—We have no objection.

His Honour—Very well, before you go on I understand that Mr O'Dowd has been agreed upon as the Official Reporter, and of course his fee will come in as part of the costs of the Court

Mr. J. H. O'Dowd was then sworn.

Mr. Nelson—I will now read the first answer filed by the defendant company, (Document read), then the amended answer put in this current month the first paragraph being struck out. (Document read). I purpose first to get out some of the facts and certain dates, so that we may start with everything in the way of dates and facts as far as they can be down in the Court The ship Elm Branch was chartered in the beginning of last year from the owners of a line of steamers known by the name Branch, by the Pacific Export Lumber Company. The contracts were entered into by cable, and I believe one of them in writing, as to the purchase of certain lumber by the American Trading Company Some of the goods were to be delivered at Taku, some at Victoria Bay, and some at Talienwan. The ship started on her voyage from Portland on the 12th of June, 1900, with this cargo, and she arrived at Mororan, which is a port in the north of Japan, a coaling port, on the 1st of July. It appears then that the captain of the ship, hearing something of disturbance, wired to his charterers, the Pacific Export Lumber Company of Portland—whether for instructions or not I do not know, probably the telegram will be produced—and they then wired to the Shanghai office of the American Trading Company. This telegram was received on the 3rd of July and was acknowledged by the American Trading Company on the 4th of July The master left Mororan with the Elm Branch on the 1st of July for Taku direct, without waiting for any further instructions, and he arrived at Taku on the afternoon of the 8th of July and found that he could not, for some reason or other, discharge the cargo according to the contract of his charterers. He then decided to go to Chefoo, and he arrived at Chefoo on the 9th, in the afternoon He then appears to have cabled to the American Trading Company at Shanghai for certain instructions They, not having knowledge of what the cargo was actually, wired back "What is the nature of the cargo?" They had the nature of the cargo wired back to them, and they were told it was lumber and sleepers, and they were advised to land the cargo at Chefoo. Ultimately, Mr. Epperly left Shanghai to go and see that things went along properly, on the 15th That was the day of the last telegram, and it was the first steamer he could get, which shows the trouble at the time in obtaining steamers, because he had to go to Chefoo viâ Port Arthur. He arrived about the 20th at Chefoo. The master had begun to unload the timber in the usual way at Chefoo, which of course, is considerably different from anywhere else as there is a very strong tide at times there, and, if there is any wind, it is impossible to work. Of course the general working at Chefoo is quite different from Taku. I may say the contract was in the bill of lading. The bill of lading says that a certain amount of cargo is to be delivered at Taku and 250,000 feet of timber is to be taken delivery of there daily. Of course at Chefoo it was absolutely impossible to deliver to the consignees, the American Trading Company, in any such amount It would be impossible to get the coolies to work at that rate On the 18th it came to Mr. Epperly's knowledge that the master had demanded demurrage, That is to say, he was entitled, under his bill of lading, if any demurrage were due, to the rate of 6d per ton per day, and that was to be paid daily. Upon this point the master was wrong anyway if he computed his time from the time of his arrival, as he states in the notice which he gave, from the 9th, because he had forgotten that one of the days was Sunday, consequently by figuring out the amount of cargo he was one day short: he was asking for his demurrage too soon, After considerable time Mr. Epperly obtained a guarantee from the Hongkong and Shanghai Bank—the agents of the Hongkong and Shanghai Bank at Chefoo—and he paid through the American Consul, the Elm Branch being a British ship, the sum of £929 5s He paid this distinctly under protest, and he will tell you that he protested all along. He will also go into the question of agreement and compromise suggested by the answer of the defendants. After some time—I think Mr Epperly will tell you more about it in his own words—after some time the steamer left for Victoria Bay, and then on to Talienwan and discharged the remainder of the cargo Later on Mr. Wardle made up the demurrage account, and this amount was paid to him under protest. First, I think I should go through the petition and answer, and show what the controversy appears to be. I will take the plaintiffs' petition first. The first two paragraphs, of course, are immaterial. The third paragraph is practically a joiner of issue. It practically says, "You say you are right, and, we say you are wrong. We are entitled to repayment of demurrage, and you say we were not." You will see that the first answer admits payment through the Shanghai office, but the amended answer denies payment.

Mr. McNeill—The first answer. I take it, is now cancelled by the filing of the amended answer?

His Honour—No.

Mr. McNeill—I should have thought so. Is that your ruling, that the original answer remains on the file?

His Honour—The original answer remains on the file and stands so far as it supplements and is not contradicted by the amended answer.

Mr. McNeill—Therefore he can refer to all?

His Honour—It is on file in the Court and of course may be commented on, but the formal answer at present in the case is the answer as amended.

Mr. Nelson—The fourth paragraph alleges that certain contracts were entered into, and I think there is very little difference with regard to that, and I do not think very much will arise upon that. The first answer admits the contracts just as they stand with some slight reservation, and the last answer in this suit goes into certain details which will not be in dispute, as to the figures, but they will probably be in dispute as to certain clauses and conditions which, from the answer filed by the defendants, appears to be attempted to be inserted in them. What those are we are not aware.

His Honour—It is simply necessary to prove what is the contract.

Mr Nelson—My case will be that the bill of lading sets out sufficiently what has to be done.

His Honour—Paragraph 5 is admitted?

Mr. Nelson—No, Sir, it is not admitted. The defendants have a reservation to that. They say the ship was not under the sole direction and control of the defendant company. As to paragraph 7, which is the question of the amount of demurrage, the first answer admitted it, but the second one—

Mr. McNeill—I must deprecate these constant references to the first answer.

Mr. Nelson—I say the second answer goes into details which will be a question of evidence. As to paragraph 8, both of the answers deny the protest, and No. 2 comes in and alleges a long agreement. As to this agreement, of course my clients will be examined and cross-examined about it, and it will be explained what it really means. As to No. 9, that is a distinct issue. In the first place the defendants deny that the goods were taken from the steamer in accordance with the contract, and they also allege negligence. Now, the matter of negligence will of course, be for the defendants to set up and for them to prove that negligence did take place, and I think they have plenty of opportunity to do that as they have somebody in Shanghai now who was in Chefoo at the time. My case will be this, that the defendants did not carry out their contract. It was for them to deliver this cargo at Taku. They could not do that. But the master then exercised his proper discretion in the matter, going to Chefoo in the first place. I say it, and I believe other people say with me, that as part of the cargo was for Talienwan, which is only a matter of a few miles further, that he should have gone there He had been to Talienwan before; he knew his cargo could be transhipped from Talienwan, and he therefore could have given delivery to the plantiffs in a very much better way No, he went to Chefoo, and when he got to Chefoo, the plaintiffs, finding all this trouble, they of course agreed to him discharging there. But the question will arise for you, and of course it will become a considerable argument in time, as to whether the conditions which obtained at Taku were to be the conditions which obtained at Chefoo; whether the cargo was to be delivered to the consignees, or taken delivery of by the consignees, at the rate of 250,000 feet, or at a reasonable and proper rate, subject to the conditions of the port There will be another point which has been raised upon the answer, and that will be as to the control of the ship. The answer goes almost to say that by incorporating certain conversations or correspondence that the American Trading Company were in fact the charterers Well, of course, that will have to be proved Our case is that that is not so You will have an opportunity of hearing me upon the legal and commercial points of the case, and I will now go into the taking of as much evidence as I possibly can. I will call Mr Epperly, who was acting as the agent of the American Trading Company at Chefoo.

His Honour—Before you call Mr. Epperly I will be glad if you will put into Court such exhibits as you wish to put in with regard to what is the contract

Mr. Nelson—My contract is the one I have received from Mr Emens, and I believe it agrees entirely with the documents referred to by the defendants. It is only a question of amount.

Mr McNeill—Not as to the conditions.

Mr. Nelson—I understand most of these contracts were by telegram. They pleaded one signed by Mr. Emens. I have not got that. This is the bill of lading

His Honour—Of course there was a contract of sale and purchase. I want all the papers put in at the present time which you rely on as a contract of purchase and sale of this lumber.

Mr Nelson—I am simply putting in the bill of lading. I put that in as all the documents I have with regard to the delivery of the cargo.

His Honour—Have you any objection to that as their exhibit?

Mr. McNeill—Certainly not

Mr. Ellis—If that is a copy you wish to put in we have no objection.

Mr. Nelson—It is the captain's copy.

Mr. McNeill— If they are the same of course we have no objection.

His Honour—Then I will put them both in for the present time.

Mr. McNeill—I object to these copies as not being the contract at all.

His Honour—Very well, we will receive them for what they are worth. Your objection is noted and practically sustained. That is, I have received them for what they are worth, and if there is anything in them I desire to know when we come to consider the case we will not consider them, unless proper original documents are put in.

Mr. Nelson—I should like to say this, I find in one of the answers the defendants say that the goods were put f.o.b., a particular amount being paid for them There is a receipt on the bill of lading for a certain amount I believe that is for a considerable amount of the freight.

Mr. McNeill—Ninety per cent of the freight.

Mr. J. C. Epperly was then called and duly sworn

Examined by Mr. Nelson—

Mr. Epperly, you are employed in the American Trading Company?— Yes.

And you were employed by them in the months of June, July, and August last?—Yes

You are principally in Shanghai?— Yes, attached to the Shanghai office.

Did your firm receive, in the beginning of July, a telegram from the Pacific Export Lumber Company?—To the best of my knowledge on the 3rd of July, 1900

His Honour—That is, you yourself saw the telegram?

Witness—I saw the telegram as delivered from the telegraph office to our office here.

His Honour—You saw it on that date?

Witness—Yes

Mr Nelson—Have you got a translation of that telegram?

Witness—The telegram is in the office; the transcript of it is here As near as I can remember I can state the contents.

His Honour—If you have a copy of it I will take that subject to your putting in the original.

Mr. McNeill—We can agree to this, I think.

Mr. Nelson—This telegram is dated 3rd July, received 4th July, from the Pacific Export Lumber Company, Portland, to the American Trading Company. Is that so?

Witness—Yes. (Telegram read) I see here I misstated myself in saying I saw it on the 3rd Of course I did not remember the date exactly I know it was sent on the 3rd, and I saw it directly it was received, which I notice was on the 4th instead of the 3rd.

His Honour—Is that admitted as a true telegram and a true translation?

Mr McNeill—Yes

His Honour—Plaintiffs' exhibit 3 is admitted as a true copy of the telegram as sent, and the translation "Elm Branch, Taku, 7th

July" as a true translation.

Examination continued –

If you want to communicate with anybody in Chefoo you communicate with Messrs. Fergusson & Co.?—Yes, as we have done more or less business with that firm in Chefoo

When you got the telegram from Portland did you communicate with Chefoo?—As near as I can remember we sent a telegram through Fergusson & Co, to communicate to the captain of the Elm Branch.

Did you send a telegram?—Yes.

Is that a copy of the telegram?—Yes.

His Honour—Is that admitted?

Mr McNeill—No, it is not admitted at present.

Witness—It is in cypher.

His Honour—Is it a private cypher?

Witness—It is the A1 code, I think

Mr McNeill—I hope you will produce this telegram.

Mr. Nelson—I shall produce press copies.

Mr. McNeill—Is not Mr. Wake to be called?

Mr. Nelson—He is not our witness.

Witness—I might say most of our telegrams were sent viâ Chefoo for delivery up North.

Mr. McNeill—We have no knowledge of this telegram.

His Honour—You swear positively this is a copy of the telegram as sent?

Witness—Yes, we will substantiate it by the original.

His Honour—Plaintiffs' exhibit 4 is admitted; the defendants not acknowledging any reception of it.

Examination continued—

Then you received in reply to that a telegram from Fergusson & Co.?—Yes.

Is that a translation of it?—Yes.

His Honour—This last telegram was to Fergusson & Co?

Mr. McNeill—That is why we do not admit it.

His Honour—Was there any answer sent to this first telegram to Portland?

Witness—Not to my knowledge. The ship was then on her way from Mororan to Taku, and we realised that we could not reach Portland sooner than the ship was due at Taku according to the telegram. This answer translated says: (Telegram read.)

His Honour—The last five words do not apply.

Witness—They may be stricken out.

His Honour—Have you knowledge of that?

Witness—Yes

His Honour—You should have brought the originals here.

Witness—It is rather hard to take the telegraph man and his books away from the office. We will do it all at once.

His Honour—Exhibit 5 is received, subject to filing of the original

Mr McNeill—We are prepared to admit that telegrams were despatched to Fergusson & Co, but as to whether they were received we have no knowledge, and we submit Mr Wake is the proper person

His Honour—Is Mr Wake in Shanghai?

Mr Ellis—Yes, and he has been here for several days He was here yesterday.

Witness—The next was from Fergusson & Co, dated the 9th and received on the 10th (Document read)

His Honour—Do you take the same objection?

Mr. McNeill—Yes

His Honour That will be received subject to the filing of the original. That is plaintiffs' exhibit 6

Witness—This is from Shanghai to Fergusson & Co., 10th July.

Mr. McNeill—We object to this. I admi that these are words which might be sent off. We must have the receipt in Chefoo proved.

His Honour—Is Mr. Wake here?

Mr. Ellis—He was here yesterday evening.

His Honour Do you know where he is?

Mr Ellis—He is at the Astor House.

His Honour Is he a British subject?

Mr. Ellis—Yes.

His Honour—For the present my advice is to ask Mr Wake here or for one of you gentlemen to ask for a subpœna for him. I receive that exhibit 7, for the present.

Mr. McNeill—Does that apply to No 4?

His Honour—Yes, to these telegrams to Fergusson & Co.,

Witness—Not having received an answer I sent off a further message, saying: (Document read.) The telegraph communication was so much interrupted at that time, and we were not receiving our replies as often as we ordinarily would.

His Honour—You understand it can be proved by Mr. Wake the reception or non-reception of these telegrams. It also can be proved here as to whether these telegrams were received at the Telegraph Company's office for transmission to Chefoo. I will receive them for the present.

Witness—On the 14th we received a telegram from Fergusson & Co., dated the 13th saying. (Document read.)

His Honour—Admitted as others.

Witness—Then on the 14th we received a telegram dated Chefoo 11th (Read). It shows how slowly the telegraph was working.

His Honour—Plaintiffs' exhibit 10 received as others.

Witness—On the 14th we sent to Fergusson & Co. two telegrams. One reads: (Read.) The other one says: (Read.)

His Honour—Plaintiffs' exhibits 11 and 12 received as others.

Mr. McNeill—That is as other telegrams from Shanghai?

Mr. Nelson—All exhibits are to be verified.

Examination continued—

Upon that did you proceed to Chefoo?—I proceeded to Chefoo by the s.s. Chefoo on the 15th by way of Port Arthur. I arrived at Chefoo about the 20th.

What was taking place when you got there?—I found the Elm Branch discharging her cargo under the Bluff at Chefoo She had been discharging for several days I was told she commenced her discharging on the 15th, so I was told.

His Honour—Told by whom?

Witness—Fergusson & Co, I think, or perhaps the captain

His Honour—Is there any question as to when she did begin to discharge?

Mr McNeill—No, there is no dispute.

Mr. Nelson Was a letter received by the American Trading Company before you left from the captain or after?

Witness—After. It was dated the 12th July.

His Honour.—Do you know the captain's handwriting?

Witness—I recognise the captain's signature.

His Honour—Is this admitted? It is dated 12th July received here the 15th.

Mr. McNeill—It is admitted.

His Honour—Plaintiffs' exhibit 13 received by consent.

Witness read the letter.

Mr. Nelson—There is one answer to that dated the 16th July.

Mr McNeill—It had better go in now.

Witness read the letter.

His Honour—Plaintiffs' exhibit 14 is admitted by consent.

Mr. Nelson—When was the first notice

you had from the master that he required demurrage?

Witness—I do not remember the date. I had been there a few days before he wrote me a letter saying that he would claim demurrage. We had more or less talk about it, and he wrote me an official letter stating the steps he proposed to take and that demurrage would commence on a certain date. It is dated the 26th July. (Letter read.)

His Honour—Is this assented to?

Mr. McNeill—Yes.

His Honour—Plaintiffs' exhibit 15 is received by consent.

Examination resumed—

What did you do then?—I think I replied to him telling him –

His Honour—Is your reply in writing?

Witness—Yes

His Honour—Have you a copy of that or the original?

Mr. Ellis—Yes, 28th July.

His Honour—Plaintiffs' exhibit 16 will be admitted by consent (Read.)

Witness read letter dated 28th July from Captain Iliff to himself.

His Honour—Plaintiffs' exhibit 17 is admitted by consent.

Examination continued—

What were the next steps you took?—We had some other little correspondence over the matter I wrote a letter to our Consul, Mr. Fowler, protesting against the manner in which a British-owned ship, commanded by a British captain, was holding American-owned cargo, and he wrote to the British Consul about it and there was no answer given. Then I wrote to Capt. Iliff saying I would deposit for the American Trading Company—

His Honour—Have you that latter?

Mr. McNeill—I think I have.

His Honour—Plaintiffs' exhibit 18 admitted by consent. (Read.)

Witness—I do not think he replied to that, at least he did not consent to it He told me he was acting under instructions from Portland.

His Honour—Did he say it verbally or in writing?

Witness—He said it verbally.

His Honour—When and where did this transpire?

Witness—The talk transpired in Chefoo We met almost every day, sometimes in Messrs Fergusson's office and sometimes at the Club, and he said he could not deviate from his written instructions from Portland I saw the cargo was eating up a great deal of interest and was very expensive to our company, and I finally telegraphed the situation to our own company at Shanghai and asked that a credit should be placed to my name in Chefoo.

His Honour—Have you a copy of that telegram?

Mr. Nelson—I do not seem to have it.

Mr McNeill—You will produce it I suppose?

His Honour—You certainly must produce it if this testimony is to go in

Witness I think I named a sum should be placed to my credit at Chefoo, and I told them that the captain arbitrarily demanded demurrage I have forgotten just exactly the contents of it The result of it was a sum of money, I think £1,500, was placed to my credit in Chefoo, and out of this I intended to pay a certain amount pending the settlement of this demurrage claim. Of course when that fell through and I saw nothing else could be done, I decided to pay the captain's demands under protest so that further delay might be avoided, and did so on the 6th of August, as near as I can remember.

His Honour—Was the protest in writing?

Witness—I paid the money through the American Consul, and wrote him a letter.

His Honour—Have you a copy of that letter?

Mr. Nelson—There appear to be two letters. Capt. Iliff had a letter written to him by the Consul covering a copy of the letter we wrote.

His Honour—Is this a copy of the letter you wrote to Consul Fowler?

Witness It is.

His Honour The plaintiffs' exhibit 19, admitted by consent is double. (Document read.) I see you ask for a receipt from the captain. Did you get it?

Mr. Nelson—Plaintiffs' exhibit 20 (the receipt) is in three parts.

His Honour—That will be received by consent. The Court will take a recess of ten minutes.

Upon resuming,

Examination continued—

What took place after the payment of this money—this £900 odd—what happened to the ship or cargo?—After I made this payment Capt. Iliff came to me and told me that he would not receive the money until I made some sort of provision for any demurrage that might become due in the future.

Any demurrage that might be claimed?—Any demurrage that might be claimed for the delivery of the cargo, and I wrote him a letter and told him that I would arrange.

His Honour—Has that letter been put in?

Witness—I think so.

His Honour—When was that letter written?

Witness—On the night of the 6th.

Mr. McNeill—I think we have not got the letter because it was in the nature of a voucher for payment. It was passed into Messrs. Fergusson & Co. for payment. I have no doubt Mr. Wake has it.

His Honour—Plaintiffs' exhibit 21 admitted by consent. Addressed to Captain Iliff. (Letter read.)

Examination resumed—

That was the same day you paid the money?—That was the same day; after the other payment was made.

What took place as to the ship or cargo after that?—The ship proceeded the next morning at about daylight—6 or 7 o'clock—for Talienwan, viâ Port Arthur, reaching Talienwan on the afternoon of the 7th—the same day she sailed. She there proceeded to discharge the balance of the Taku cargo.

She would go from Port Arthur to Talienwan?—Yes, I went over on the ship from Chefoo to Port Arthur, and held the ship outside until I gave the Captain notice to proceed to Talienwan, and there report, I think, to the Chinese Eastern Railway Co. It was simply a notice for him to proceed to Talienwan.

Did he proceed to Talienwan?—He proceeded at once on receipt of that notice, in fact he did not come into Port Arthur, and I sent this notice out to him.

Is that what you got from the stevedore of the Chinese Eastern Railway Company?—This, I think, was given to Mr. Wardle, I think, about the date of the final delivery of the cargo.

Mr. Wardle—Yes.

Witness—It has two dates; one is the Russian.

His Honour—Which is our date?

Witness—The 14th.

His Honour—Plaintiffs' exhibit 22 is admitted by consent. (Document read.)

Examination resumed—

You returned to Shanghai?—I returned

to Shanghai viâ Chefoo.

Are these letters you received a receipt for the final claim for demurrage?—Yes.

His Honour—Plaintiffs' exhibit 23 is admitted by consent (Document read.)

Examination resumed—

Now, tell me, with regard to the suggestion in the answer that you compromised the matter by paying a certain amount is that true or not?—I cannot understand their reference to that at all. There was no compromise that I made at all. I paid the claim that he demanded, and I paid, as I intended to pay it, under protest, protecting our right to further adjudication. The matter of his proceeding to Talienwan, that was not discussed because I did not understand him to raise any objection to that at all. A portion of his cargo was destined for Talienwan. There was portion for delivery at Victoria Bay which is an arm of Talienwan, about half-a-mile away, and they charge the day that it took them to carry the lumber to Talienwan in their demurrage. As a matter of fact they should lose that. There were certain other items which were gone into relative to the transhipment of the cargo after it had been landed at Chefoo. I telegraphed to our company here asking them to ascertain from Mr. Wheelwright at what price.—

His Honour—I do not see the relevancy of that.

Mr. McNeill—It is in relation to the question of waiver, which is set out in the answer.

Witness—They claim that under certain conditions or certain things done by the defendant company, the protest was waived, and I want to explain that there was no waiver.

Mr. Nelson—You say distinctly there was no waiver?

Witness—None whatever.

Mr. McNeill—I understand this telegram will be produced.

His Honour—That is a matter of cross-examination, it strikes me.

Mr. McNeill—But he is undertaking to produce the document?

Mr. Nelson—Oh, yes.

Examination resumed—

Tell me, speaking generally over the whole case, did your company receive any notification that the ship would call at Mororan?—Not to my knowledge

The first notification was the telegram of 3rd July?—Yes, from Portland.

Now, tell me, did you agree that the conditions at Chefoo should be the same as those at Taku, for discharging?—Never. In fact the difference of the conditions was so apparent.

His Honour—You have answered the question.

Mr. Nelson—What would be the rate they could take the delivery of at Talienwan?

His Honour—Have you unloaded other vessels at Talienwan?

Witness—We have had other vessels discharged at Talienwan, and we consider it a very much better port, and I think there has been as high as 300,000 feet delivered there under the best circumstances, for instance, a deck load where it could be handled quickly. Ordinarily, in good weather, they could discharge all the way from 150,000 to 250,000 feet per day easily.

Mr. Nelson—Was Talienwan a better port than Chefoo?

Witness—Very much.

His Honour—How much did this vessel average discharging at Chefoo?—I see she averaged 100,000 feet a day. She began on the 15th, and of course she did not work every Sunday. They stopped discharging on the 28th.

His Honour—How much was unloaded at Chefoo?—It was not tallied out, but we calculated 1¼ million as a rough approximate estimate.

Mr. Nelson—How many Sundays would there be in that?

His Honour—You need not answer that. They began unloading on the 15th and ended on the 28th, both days included, and that this plaintiff company estimated to discharge 1¼ million feet. Was all the remainder of the cargo unloaded at Talienwan?

Witness—Yes, really none of the cargo was tallied. I do not know, unless the ship kept a tally, how much was unloaded at Chefoo. There has been no tally taken for our account.

Cross-examined by Mr. McNeill—

Do I understand, Mr. Epperly, that you received no notice from your San Francisco house with regard to the movements of the Elm Branch? No, Sir.

When you were first notified, I believe on the 4th July, what was the first step that was taken?—The telegram that I mentioned to Messrs. Fergusson & Co.

Was there, at any time, sent to Fergusson & Co. a telegram or letter from your Shanghai office suggesting that the ship should be discharged at any port except Chefoo? I do not know that there was.

Have you discharged other ships at Chefoo; I mean lumber ships?—I have had nothing to do with other ships.

Has you company to your knowledge discharged other than lumber ships?—If they have it is not within my province.

Before you went up to Chefoo were you yourself personally acquainted with the stevedore arrangements at Chefoo for working cargo? No, I have had no experience whatever of discharging cargo

So far as you know, was anyone in your office acquainted with the facilities at Chefoo?—I could not say.

Do you know Mr Epperly, whether there were ever received by your Shanghai office any specifications in regard to the cargo of the Elm Branch?—That is up to what date.

At any time?—Up to the time the ship arrived, not to my knowledge.

Do you know of your own knowledge whether any specifications were received?—I do not think a copy was received, until perhaps lately, by our office. Of course lately documents have all been received.

At any rate you say they were not received before the arrival of the ship at Chefoo?—Not to my knowledge; that is the reason we telegraphed for that information.

Is Shanghai a good port of discharge?—To my knowledge it is considered to be about the best on the coast. I should consider Talienwan though very nearly as good.

Do you know how the cargo was loaded on board the Elm Branch; was the Talienwan cargo on top?—The Victoria Bay cargo, I think, was in the lower hold. I do not know.

With regard to Messrs. Fergusson & Co., you say when your company had business to be done they corresponded with Messrs. Fergusson & Co.?—In a great measure, yes.

Did Messrs. Fergusson & Co. make the arrangements with the stevedores for unloading this ship?—Yes.

Whom did they employ?—They employed their own company; I understand the Chefoo Tug & Lighter Co.

Was this letter which has been put in of the 26th July, the first notice that you had from the captain as to lay-days and demurrage?—I do not know that it was; there may have been another.

Do you know whether, as a matter of fact, Messrs. Fergusson & Co., had any previous communication from the captain with regard to the demurrage?—I think there was a letter written to Fergusson & Co.

You have not got that letter?—Yes, I have got it.

His Honour—Is it contended that Fergusson & Co were the Chefoo agents of the American Trading Company?

Mr. McNeill—Yes

Mr. Nelson—Is that going to be contended?

Mr. McNeill—Yes, they signed on behalf of the American Trading Company.

His Honour—You say directly that they were not the agents of the American Trading Company?

Mr. Nelson—Yes.

His Honour—This letter is admitted by consent. Of course I will admit this as I understand you will claim that Fergusson & Co. are the agents of the American Trading Company, and that will be denied. That of course I will admit subject to your proof that they are agents of the American Trading Company. The burden of course will be on you. (Mr. McNeill.) Defendant's exhibit 1 is admitted by consent. (Document read.)

His Honour—Did you see that?

Witness—Yes.

His Honour—Of course, Mr. Epperly having admitted seeing it it will be taken as notice to the American Trading Company.

Cross-examination continued—

When you were notified that these lay-days were running out did you communicate with Shanghai?—I sent them a telegram on the subject. I do not know exactly what it contained.

What I want to get at is, you heard on the 23rd of July, that the lay-days were running out?—That is that they claimed they were run out.

What I want to know is, did you communicate at once, and if not at once on what day did you communicate with Shanghai?—I do not know that I communicated at all. I do not remember in fact.

May I take it that you did not?—You may take it so, but I do not say so. I do not know that I did.

This, I understand, was the first written notice you had. Did you have any previous discussion with the captain with regard to the time the lay-days would expire?—Yes, the matter was talked over in a general way.

Can you tell me how long before this the matter had been talked over?—Shortly after my arrival in Chefoo. I arrived on the 20th and we talked it over shortly after.

When you got written notice did you take any special steps to hurry the discharge of the ship?—I tried to hurry the discharge of the ship all the time; that is I notified Messrs. Fergusson & Co. who were the agents of the Lighter Company, and in various ways tried to expedite the delivery of the cargo as much as possible.

Did you give any notice at this time to San Francisco that the lay days were running out?—No.

Or to America at all?—Not to my knowledge.

Is your Shanghai branch under the orders of your Tientsin branch at all?—It is vice versâ as I understand; Shanghai is the head office in China as I understand. I do not know anything about the working of the company.

I only want to know if you know about the relations of your branch. You say Shanghai is not under the branch at Tientsin. Is it independent?—I do not know. I cannot state positively about the inside working. I am not an officer of the company.

You cannot state what the relations of these two branches are, whether ohey are independent or one is dependent tn the other?—Not to my knowledge. I do not know anything about it, as I have stated, at all.

Can you tell us anything about the relations between your Shanghai branch and the San Francisco office?—No.

You cannot say whether the Shanghai branch is entirely independent of San Francisco?—Well, I should say it was. All the branches have working connection, but I cannot say positively.

Can you tell me this, if you have to make any communication to America do you communicate direct to your head office in New York or San Francisco? I cannot state of my positive knowledge anything about it.

Do you know whether any claim has been made by your company against the Chinese government with respect to the expense incurred with regard to the cargo of the Elm Branch?—I do not know.

Are you prepared to say no claim has been made?—I am not.

Roughly speaking, while you were in Chefoo I suppose you saw a good deal of Capt. Iliff?—I saw him almost every day.

Were your relations friendly?—Yes.

Throughout?—I should say so.

When did the captain first tell you a definite amount which he claimed to be paid for demurrage?—I cannot fix any date. I think the amount was figured out upon the basis of the days consumed.

His Honour—He says when did he first tell you?

Witness—I cannot say.

Cross-examination continued—

Can you give us any idea at all when the captain first stated there was a sum of so much due for demurrage, and what amount that was?—I cannot; his letters are all I have to go by.

Can you tell me, if you cannot say when the claim was made, what was the amount which the captain claimed for demurrage when he first named a definite sum?—As near as I can remember he did not name an amount until the final amount was figured out

Do I understand that when he first named the amount, the amount was the same as the amount which was finally paid?—To the best of my recollection it was.

You say then that it was not a case of a claim being made for an excessive amount and subsequently reduced to a different amount for payment?—It was not so.

Now, at a certain point the ship was moved away from Chefoo. Was that done by the captain of his own motion or in consequence of some arrangement made by your company?—I told him to take the balance of the cargo to Talienwan to discharge it. I gave him such instructions at Port Arthur.

His Honour—You instructed him at Chefoo in writing?

Witness—I instructed him verbally at Chefoo and in writing at Port Arthur.

Cross-examination continued—

Did you do that in consequence of instructions you received from Shanghai or elsewhere?—On my own motion.

You had no instructions from Shanghai, and you did it entirely by yourself?—Yes.

Before you gave those orders to proceed to Talienwan had there been any discussion as to whether the ship should be taken there, or would be taken there, if further orders were given?—There was some talk between us, but I told the captain that there was a portion of the cargo that should be taken in any event to Talienwan, and that the cargo should be delivered to Talienwan if we demanded it.

At that time was the cargo remaining on board the ship all cargo which should be delivered to Talienwan?—Not all of it.

I repeat the question I asked before, was there any discussion between you and the captain before you ordered him to go to Talienwan as to whether cargo other than Talienwan cargo should be taken there?—Yes.

Will you tell us about it?—I asked him if he could make me a price per thousand feet for transhipping the cargo that had been discharged at Chefoo by the Elm Branch to Talienwan.

Did he answer you?—He told me that he could not; that he would have to refer it to his charterers.

And did he refer, as far as you know?—I do not know that he did.

Did you refer to Shanghai?—I referred to Shanghai.

Did you refer in writing or by wire?—I wired to Shanghai.

Is that wire here?

His Honour—Defendants' exhibit 2 admitted by consent. (Document read.) Defendants' exhibits 3, 4 and 5 are admitted.

Cross-examination continued—

You thereupon, on receipt of that telegram, ordered the captain to proceed to Talienwan?—Not on the receipt of that telegram.

When did you receive that telegram?

His Honour—Sent from here on the 4th August

Cross-examination continued.

What did you do on receipt of that telegram?—On the 6th August I paid him the demurrage that he alleged to be due. I do not know that I did anything on receipt of that telegram particularly.

Did the captain at any time show you a telegram he had received from Portland?—I think, perhaps, he showed me that telegram; I cannot tell positively.

His Honour—Did he show you any telegram?

Witness—I cannot state whether he showed me this telegram; he showed me a telegram he had received from Portland, so he said.

His Honour—To that effect?

Witness—It might have been to that effect.

His Honour—Do you remember what it was?

Witness—I cannot state positively what the telegram was.

His Honour—Defendants' exhibit 6 is admitted.

Cross-examination continued—

There were a certain number of days while the ship was at Chefoo during which the captain held the cargo? Yes.

From the 28th July to the 6th August I think it was?—Yes.

What were you doing all this time? Were you in Chefoo?—Yes.

What were you doing?—I suppose I was doing what Captain Iliff was doing. I was waiting for him to come to his senses.

Were you wiring or writing Shanghai all the time?—I sent telegrams and letters.

Have you got those letters?—I have not got them.

They have not been put in?—They have not been put in.

Mr. Nelson—I do not object to this, but I have not seen them. They are privileged communications.

His Honour—I want to know what you are expecting to prove.

Mr. McNeill—Out of these letters and telegrams? Merely as throwing light upon the general attitude of the plaintiff company. I believe, as a matter of fact, they practically sat still and did nothing. There was delay before they even paid under protest and got on with the cargo. If Mr. Epperly was writing all the time and they would not come to a settlement, so much in his favour. If he was not doing so, it is a little against him. If those telegrams and letters are here I think they should go in.

His Honour—I do not think I can allow the question unless it is for some specific letter, and then to be considered.

Mr. McNeill—We do not know what letters were sent. Was Mr. Epperly corresponding?

His Honour—He admits that.

Mr. McNeill—You say we have got to specify the letters first?

His Honour—Yes.

Mr. McNeill—I beg to take exception to that.

Cross-examination continued—

The demurrage, I understand, was paid by means of a credit which you obtained in Chefoo?—Yes.

Your Shanghai branch opened a credit in Chefoo with the agents of the Hongkong Bank in Chefoo?—Yes.

And it was in virtue of that credit you were able to make the payment of demurrage?—

Do you know whether your Shanghai branch has, since the date of that payment, drawn upon Tientsin for the amount paid?—I do not know.

You do not know that they have not done so?—I do not know.

Mr. McNeill—It is possible they have done so?

His Honour—Please do not complicate the record with matters of that kind. He has answered he does not know.

Cross-examination continued—

Do you have in your Shanghai office any transactions with Tientsin in the way of business?—Well, yes.

Do you sometimes settle accounts together? Do you know?—Well, I do not know.

Mr. McNeill—I have no further questions.

Re-examined by Mr. Nelson—

Mr. McNeill asked you whether you suggested any other port when you received the telegram that the ship would be at Taku on the 7th?

His Honour—He has answered that. He was asked if they did suggest any other port, and he said not to his knowledge.

Mr. Nelson—He was going to give a further answer and he stopped.

Witness—I think I said my reason was that we did not have the specifications and know what the cargo consisted of.

With regard to the amount of demurrage—the full amount. Do I understand you to say it was never fixed until the time when you were prepared to pay it under protest?—To the best of my recollection the amount was figured up on the 6th of August.

With regard to the same question Mr. McNeill asked with regard to this re-shipment of the cargo after it had been discharged and their telegram; when you got that telegram from Shanghai did you accept the terms for re-shipment?—No.

His Honour—Did you, as a matter of fact, re-ship any cargo from Chefoo to Talienwan?—No, Sir.

Mr. Nelson—And your reason?

His Honour—I do not know that you need ask that.

Mr. Nelson—There are a few more letters which I think might go in. They are from the head office of the Pacific Export Lumber Company.

His Honour—In connection with this witness?

Mr. Nelson—I do not know whether he received them or not.

Mr. McNeill—You cannot put in anything signed by Mr. Ball, if he is coming here. We rather thought he ought to be called.

His Honour—The Court will stand adjourned until 2 o'clock to-morrow.

SHANGHAI, 15th May, 1901.

Upon the Court resuming,

Mr. J. P. Wake took the witness chair and was duly sworn.

His Honour—You are of the firm of Fergusson & Co?

Witness—I am.

Examined by Mr. Nelson—

In July and August last you had something to do with a steamer called the Elm Branch from the Pacific Export Lumber Company in regard to the lumber?—Yes, and had also to correspond with the American Trading Company.

Certain telegrams passed between your firm and the American Trading Co., copies of which have been put in. I ought really to say telegrams were sent to your firm from the American Trading Co., and I would like you to look through them and say, to the best of your knowledge and belief, whether those are correct.

Plaintiffs' exhibit No. 4 shown to witness.

That is the 5th July.—I think that is the first one we got

You remember that telegram? —Yes.

His Honour—That is a true copy of the telegram you received?

Witness—Yes

His Honour—Plaintiffs' exhibit 4 was shown to Mr. Wake who positively identified it as a correct copy of one received by them.

Plaintiffs' exhibit 7 shown to witness.

Mr. Nelson—You received that telegram?

Witness—I received that.

Plaintiffs' exhibit 8 shown to witness.

Witness—Yes.

Plaintiffs' exhibits 11 and 12 shown to witness.

Mr. Nelson—And those?

Witness—Yes.

His Honour—There were, of course, plenty of telegrams from Fergusson & Co., to the American Trading Co. They are subject to the production of originals.

Mr. Nelson—Mr. Epperly has gone over those. If there is any doubt about it I will ask Mr. Wake as to each. I have put Mr. Wake as identifying these documents, and, of course, if Mr. McNeill asks any questions upon any other point I reserve my right to cross-examine.

His Honour—Mr. McNeill can cross-examine as to these, and if he examines him further it is a direct examination and he (Mr. Wake) then becomes his witness.

Mr. McNeill—I protest against that ruling. Mr. Nelson very properly examined the witness only on the point which he required. He says if I go beyond those points in my cross-examination he reserves his right to direct his re-examination not merely to the point on which he has examined but on other points. That I am quite satisfied with, but, of course, I am entitled to cross-examine the witness on the whole case.

His Honour—If you take him further than the points raised by Mr. Nelson then he becomes your witness.

Mr. McNeill—I take exception to that

His Honour—The exception is noted.

Mr. McNeill—May I state the position I take in the matter. I think Mr. Nelson and I are quite agreed as to the position. He really tenders this witness for cross-examination. He asks certain questions and says "I do not propose to ask him any further questions, but, if you take him further, I will."

His Honour—If Mr. Nelson desires to waive the point and for the witness to remain his witness he can do so.

Mr. Nelson I have simply called him to prove these telegrams.

Mr. McNeill—I only say that he is your witness.

His Honour—The exception has been noted.

Mr. McNeill—I am quite satisfied if the exception is noted.

Cross-examination by Mr. McNeill—

When was the first notice you received with regard to the Elm Branch?—On the 5th.

In consequence of the telegram did you make any attempt to communicate with the captain of the Elm Branch?—We had no opportunity of doing so.

Did you make any attempt?—We could not make any attempt because there were no steamers running.

Did you write any letters?—We had no opportunity.

His Honour—Simply answer yes or no, it is sufficient. He asks, did you write a letter?

Witness—Well, that I cannot say. I know perfectly well there were instructions in the office to communicate with Tientsin on the first opportunity, but we had no opportunity.

Mr. McNeill—Did you on the 7th July, write a letter to the captain, addressed to the captain of the Elm Branch?

Witness.—That I cannot say.

Mr. McNeill—I should like to get Mr. Wake to give us a press copy of the letter he wrote.

His Honour—Where is the original? (Document produced.) Did you write that letter.

Witness—I signed it certainly. That is my signature; 12th July, that is right.

His Honour—This is offered as defendants' exhibit 7. (Document read.) I will admit that.

Cross-examination continued—

As far as you know did that reach the captain?—It did not reach him.

What steps did you take, if any, with regard to sending it off?—I sent it by transport. It had not reached him when he returned. We had no means of communication. We despatched it by the first means of communication—either through the Chinese Post or by transport.

You despatched it in some way?—Yes, on that date it went out of the office and we had nothing further to do with it.

Do you know whether at that time Taku was in direct communication with Shanghai?—Taku, I should say was not in direct communication with Shanghai.

Do you of your own knowledge know that the port of Talienwan was in direct communication with Shanghai?—No; from Talienwan they had to come by way of Chefoo. Talienwan had no cable.

The Elm Branch was partly discharged of Chefoo? Yes, partly discharged.

With regard to the discharge, did your firm make the arrangements?—No, the captain made his arrangements with the stevedore himself.

Directly?—On our recommendation, but I had nothing to do with the arrangements made.

Is your firm concerned in the shipping business?—Yes.

Can you tell me whether it is as a rule the practice of the consignees of cargo to arrange with the stevedores for landing it, or whether it is the practice of the shipowner or charterers of the ship?

His Honour—I do not think it is necessary to go into that. He says he has knowledge of this specific fact.

Mr. McNeill—Well, I will not press that; it is really a matter of law.

Cross-examination continued—

I understand you to say the captain made the arrangement upon your recommendation?—Yes.

Whom did he make arrangements with?—With the Chefoo Lighter Company.

Is your firm in connection with that company?—Yes.

What connection?—Joint owners.

While the Elm Branch was at Chefoo were any communications addressed to the captain of the Elm Branch through your firm?—That I cannot say, I do not know.

You think there were?—No, they sent to me simply as agent of the steamer, and I handed the communications over.

There were no messages addressed to your firm for communication to the captain?—No, all came direct

With reference to this letter (produced) I will ask if you addressed this to the captain of the Elm Branch?—It is quite possible

Did you address that letter to the captain of the Elm Branch?—Yes, that is my writing.

His Honour—Do you offer that as an exhibit?

Mr. Nelson—What is the date of that?

Witness—The 13th July, I remember now.

His Honour—Defendants' exhibit 8, admitted. (Read)

Cross-examination continued—

There is a reference in that letter to the duty being paid, you paid that duty?—Yes.

Whom did you pay it for?—Acting on behalf of the American Trading Co.

I hand you another letter, dated 14th July, and ask whether you sent that?—Yes, that is sent by me.

His Honour—Defendants' exhibit 9, admitted. (Read.)

Witness—Acting on instructions, may I add.

His Honour—There is the letter.

Mr. McNeill—Is there a gentlemen of the name of Donnelly in your firm?

Witness—Yes.

Mr. McNeill—Are you acquainted with his handwriting?

Witness—Yes, certainly, he is in my firm.

His Honour—And that is signed by Mr. Donnelly?

Witness—Yes.

His Honour—Defendants' exhibit 10, admitted. (Read.)

Mr. McNeill—The whole point is that Mr. Donnelly is an employee of Fergusson & Co. Now I ask you to remember whether your firm received a letter from Captain Iliff stating that the lay-days expired on a certain date, and with regard to the demurrage. I suggest the date was the 23rd July.

Mr. Nelson—It is admitted. The written letter is in and admitted. It is amongst the defendants' exhibits.

His Honour—Defendants exhibit 1; signed by F. S Iliff.

Mr. McNeill—Quite right, it is in, thank you.

Cross-examination continued—

Did your firm receive on 9th July upon the arrival of the Elm Branch in Chefoo, a letter from Captain Iliff?—Captain Iliff came into the office and put the letter into the office, if I remember rightly.

Have you got that letter?—I suppose we have got it up North. I did not know I should be called.

His Honour—I am going to admit this (copy produced) as it is. Defendants' exhibit 11, admitted. (Read.) Ordinarily speaking I would not admit a press copy of this kind. There has been plenty of time to get this oiginal here, and this witness testifies that this is probably what he received.

Re-examination by Mr. Nelson—

Mr. McNeill asked you about Talienwan; I suppose to the best of your knowledge it was open at this time?—Open.

His Honour—What do you mean; free from ice?

Mr. Nelson—For discharging cargo.

Re-examination continued—

Your firm are agents for a very large number of steamer companies?—We have a certain number of steamer companies.

And do you put down in your hong-list your agencies?—Generally.

You have a long list of agencies?—Yes.

Do you consider yourselves agents for the American Trading Co.?—We consider ourselves correspondents.

When you wrote to the captain did you write on account of the telegram you had received from the American Trading Co. or did you write on your own responsibility as an agent?—I think it was on account of the telegrams we had received, dated the 11th and 12th.

If you had not paid the duty you could not have landed the goods and there would have been delay?—No, the discharge would have been stopped at once.

By the Court—

His Honour—The Court will ask a question or two. This first letter that you sent to Capt. Iliff, you said you knew it was not delivered to him. How do you know?—For the simple reason there was no communication between Chefoo and Taku.

Did it come back to you?—I think Capt. Iliff received it back later, otherwise he must have had a copy from us.

You testified that Capt. Iliff made his own bargain with the stevedores in regard to the unloading?—Yes, he did.

Do you know with whom he made the bargain?—With Curtis, who was the manager of the Chefoo Lighter Co.

You are the owners of the Chefoo Lighter Co?—Part owners.

Is it a stock company?—No, it is jointly owned.

Did you in reality do this unloading; did Fergusson & Co. do this unloading?—No.

Did they have any share in the profits of the unloading?—Yes.

In how far, other than as part owners of the Lighter Co.?—Simply as jointly interested.

No further?—No.

Where is Capt. Curtis?—He is in Chefoo at the present moment.

Do you know if it was a written bargain between him and Capt. Iliff?—I do not know; I think not.

Did Capt. Iliff, before he made any communications, make any demand that you, as agent of the American Trading Co., should receive and unload that lumber?—He simply stipulated the price, and Capt. Curtis told him he could not undertake it because he said he did not know anything about handling lumber.

Do you know the details of the bargain made between Captains Curtis and Iliff?—I think it is 50 cents a thousand feet.

Do you know whether any given amount was specified to be unloaded in a day?—Capt. Curtis would not undertake it.

Would not undertake it?—No.

Did Captain Iliff make any protest to you against the amount that was likely to be unloaded. Did he say that 250,000 feet a day was to be unloaded?—That is one of the things it is impossible to talk about when you have got a boat four miles away from Chefoo.

Did he make any demand on you?—He asked whether we could undertake it, and we said no.

He asked you for the American Trading Co.?—He asked us whether we could receive it at the rate of 250,000 feet a day.

Did he make a distinction? Did he ask this of Fergusson & Co. or of Capt. Curtis of the Lighter Company?—He asked Capt. Curtis whether he would undertake it and

he said no, as far as I remember.

I ask you whether he asked Fergusson & Co. to receive this timber and unload it at the rate of 250,000 feet a day?—Fergusson & Co. had nothing to do with receiving.

Pardon me, Mr. Wake, you misunderstand, I am not asking you about the bargain. Did Captain Iliff at any time ask or demand of Fergusson & Co., that they should, acting for the American Trading Co., receive and unload that timber at the rate of 250,000 feet, or at any rate, per day?—No, he did not. He said the bill of lading called for so much a day.

Said this to Fergusson & Co.?—Yes, that it called for so much a day.

You will understand this, Mr. Wake, the captain in his writing constantly writes to you as agent of the American Trading Co. The bill of lading called for the unloading of that lumber at the rate of 250,000 feet a day. Did Capt Iliff demand of you, as agent of the American Trading Co., that you should take delivery of that lumber and unload it at the rate of 250,000 feet a day?—Mr. Epperly was in Chefoo, and, as soon as he came to Chefoo the matter was between Capt. Iliff and Mr. Epperly.

Before Mr. Epperly came did Capt. Iliff make any demand?—No, he simply told me the rate by the bill of lading and said if it was not unloaded at that rate that he would claim demurrage - that they were entitled to demurrage on less than 250,000 feet.

Did you have anything to do for the American Trading Co. with making the bargain for unloading that lumber?—I made the bargain on behalf of the American Trading Co. what they were to pay for receiving the lumber.

Made the bargain with whom?—The same people.

Capt. Curtis?—Yes.

Mr. McNeill—Might I ask a further question so as to make it clear. The bargain made by Capt. Iliff was with regard to discharging the cargo?

Witness—Yes.

Mr. McNeill—The ship puts over the ship's side and you receive?

Witness—Yes, that is so.

His Honour Then this bargain with Capt. Curtis was to put it over the side, and that then you received it and transported it to the shore and unloaded and piled it up, and did what you pleased with it?—Yes, that was the agreement.

Mr. Nelson—With regard to these other telegrams, to prove they were received by the American Trading Co., I have Mr. Epperly here, and the clerk who translates these telegrams.

The originals of plaintiff's exhibits 3, 5, 6, 9 and 10, plaintiffs' exhibit 4½, and the orginals of defendant's exhibits 2 and 4 were then filed.

Mr. Nelson—I now contend that I have made out a prima facie case for the return of this demurrage, or at any rate a portion of the demurrage, and I must refer to the amended answer herein in which certain allegations are made as to the contract and as to the variations of the contract, as to what the rights the defendants are in the case; also as to suggestions of negligence in unloading, and questions as to the control of the plaintiffs over the ship, and I submit to the Court that, having made out that prima facie case, it is for the other side to show why they should claim this demurrage and that they should show their contracts, and, if they possibly can vary them, as they say they can in their answer, that they should do so now. I leave that to the Court.

His Honour—Do you desire to rest at this time?

Mr. McNeill—I understand Mr. Nelson has closed his case?

His Honour—Of course he has the privilege of rebutting after you close your case.

Mr. Nelson—It may be necessary to call Mr. Ball.

Mr. McNeill—Your Honour has not decided as to whether a prima facie case has been made out or not.

His Honour—Certainly not. Do you mean to introduce any fresh evidence?

Mr. Nelson—With the exception of Mr. Ball; I will call him if there is any necessity.

Mr. McNeill—You will call him?

Mr Nelson—If necessary.

Mr McNeill—When is he likely to return?

Mr. Nelson—In the course of about a week or ten days.

His Honour—The plaintiffs rest, an agreement being made in regard to the testimony of Mr Ball if it is desired to call him.

Mr McNeill—If it is desired or if he desires?

Mr. Nelson—If we think it necessary

Mr. McNeill—If you think it necessary?

His Honour—If you think it necessary you can call him.

Mr McNeill—That is a little hard to have to call the plaintiff as our witness.

Mr. Nelson—Of course, the legal question will be argued out afterwords.

Mr. McNeill—I should like to ask Mr. Nelson, whether he would admit, merely with regard to the dates, the log of the Elm Branch. It states the date of her arrival at various places which are in actual agreement. It forms a convenient record. It is a certified copy of the extracts—as you are aware a ship's log contains references to the tide and winds, and things of that sort, but this is an abstract.

His Honour - You desire to file this for the purpose of dates?

Mr. McNeill - Yes.

Mr. Nelson—I would like to see it first. The curious part is the master has not signed the log; the mate has signed.

His Honour - Mr. Epperly, will you take that and look it up as far as the dates are concerned.

Mr. McNeill - I think the time has come now for me to renew my application with regard to taking the evidence of witnesses on behalf of the defendant company. We now reach the point at which the plaintiffs have, as I understand it, proved to their satisfaction a prima facie case. They have proved, it is true—and I believe a matter not at all in dispute - that demurrage was paid in connection with the cargo of this steamer Elm Branch; and they say that, having proved demurrage was paid, that of course establishes a prima facie case showing demurrage ought to be paid back again. The evidence rests there, and the fullest liberty has been now reserved, as I understand the plaintiffs, to bring in every kind of evidence that they please in connection with such evidence as we may think fit to adduce. If the plaintiffs' case had been finally closed, as one might have supposed that it would be at this point, that is to say, a distinct case been stated, the facts distinctly stated proved in evidence and the law adduced which was to give support to inferences which might be drawn from these facts, then, I think, we should have been in an entirely different position. We should have known the case we had to meet. We should have known what facts were set out, and how far they were proved; what inferences of law the plaintiffs said were to be drawn from them; and we should have been able either to take such facts as we agreed with as admitted, to oppose such of those as we differed from, or to ask you to have further evidence from elsewhere. At present, so to

speak, we do not know where we are. We have got to begin our case. As you are aware, we have no evidence, except documentary evidence, which we have by consent of my friend Mr. Nelson put in either as exhibits of his or ours, and beyond that we are not in a position to give any kind of statement of the facts of this case. We can make any amount of allegations, and I am prepared to stand on my legs and make allegations as long as your Honour is prepared to hear me. I will allege that we are not liable to restore this demurrage, and I have not got a bit of evidence except the few letters put in and a statement or two from Mr. Wardle, who was a party to the final transaction on part of the demurrage. I most respectfully press upon your Honour that the case ought to be adjourned to enable us to obtain the evidence of the only witnesses we have whose evidence can support our case.

His Honour—Those are Mr. Wheelwright and Capt. Iliff?

Mr. McNeill—The moment is specially favourable in respect to Capt. Iliff.

His Honour—As I understand you have put in all the documentary evidence you desire to.

Mr. McNeill—That we can prove. We have several documents we cannot prove. I think Mr. Nelson would probably admit two documents we have here. One is the statement of the Commissioner of Customs that we cannot land the cargo at Taku, and the other a statement from Admiral Bruce that we had better go elsewhere.

His Honour—You desire to put Mr. Wardle on the stand?

Mr. McNeill—I will put him on the stand at any moment when it seems convenient to your Honour, but I should desire to be allowed to reserve the opening of my case as it is entirely allegations, and I do not know how far I can support them. The result is I may prejudice the case because I do not know how far I can prove things I have said.

Mr. Nelson—With regard to what Mr. McNeill has said, I rely a great deal upon what your Honour said when he made the previous application, and I also rely on his own written document. His amended answer, compiled at great length, with great care and forethought, mentions certain documents. These documents are not put in. They are most important. If Mr. McNeill is going to prove negligence he must have certain evidence in China to say that, and if he is going to press those documents they ought to be here. Certainly if he has got any documents signed by the American Trading Co., they ought to be produced, or certified copies could be obtained. I think Mr. McNeill should produce all he can. If he likes to make his application afterwards I think you will take a reasonable view of it, as I think you will now.

His Honour—May I ask you, without prejudice to your case, does this amended answer embody Mr. Wheelwright's testimony?

Mr. McNeill—Roughly it does; it embodies the testimony of Mr. Wheelwright and Capt. Iliff.

His Honour—Is it not possible without prejudice to your case, though it gives the other side no chance of cross-examining, is it not possible to consider this as Capt. Iliff and Mr. Wheelwright's testimony, and put it as such, and put in your documents on that?

Mr. McNeill—Of course I quite see the force of that. If I could ask Mr. Nelson to admit that I would.

His Honour—Can I not take that as Mr. Wheelwright's and Capt. Iliff's testimony for as much as I would take their individual testimony if they were here? Do you object to that?

Mr. Nelson—I do not admit those as being the facts.

His Honour—I appreciate that, you cannot admit that as being the facts. Can you admit that as testimony which Mr. Wheelwright and Capt. Iliff would probably give?

Mr. Nelson—They would probably give that I presume.

His Honour—And go on as though that were their testimony taken in the reporter's notes, put in the documents on that, and go on that?

Mr. Nelson—I think so.

His Honour—If that can be done it eliminates the question of sending for Mr. Wheelwright and Capt. Iliff's testimony.

Mr. McNeill—It is a most inconvenient thing.

His Honour—I am very loath to put this case off. You cannot certainly object to take that answer as Mr. Wheelwright's and Capt. Iliff's testimony.

Mr. McNeill—So far no, but if you will look at the third paragraph, about seven lines down, you will see the contract was entered into subject to certain conditions and verbal arrangements (Paragraph read) Of course we have the bill of lading.

His Honour—And you have those original orders, telegrams and letters.

Mr. McNeill—Yes. The charter-party I think Mr. Nelson would readily admit, and I think no dispute would arise. Going back we come to the letters that were exchanged between the parties Now I have nothing in the way of letters which were received in Oregon. I am instructed that letters between the parties were received which were material to establishing a contract. I have not got anything in the nature of letters. I hav as a matter of fact telegrams which if they were admitted, I could put in, origi al orders I have not got at a'l, and, of course, as to the verbal arrangment between the parties, by which I mean discussion which originally took place between Mr. Emens and Mr. Wheelwright.

His Honour—They would cut no figure if they were finally settled in writing. They cut a figure if the written instrument is doubtful.

Mr. McNeill—There is a thing called part performance, which makes a lot of difference in the e matters

His Honour—I think I will cut the discussion short by admitting that this amended answer is the te timony of Mr Wheelwright and Capt. Iliff, and go on with the case from that and then, when we get through, if you decide to ask for anything more, you can make your application.

Mr. McNeill—Of course we do not like it at all. I am going to take an exception to it if it becomes your ruling. The real difference—it is the only one between Mr. Nelson and myself—is with regard to the exact arrangements under which this cargo was to be shipped. That is the whole thing, and we never can come to an agreement, because it was always understood that what took place between Mr. Wheelwright and Mr. Emens, and on previous occasions, qualified the whole thing.

His Honour—I will admit this as the testimony of these gentlemen on your statement. I do not propose to shut out at the present time any possibility of a commission to take this testimony. I simply desire to avoid delay with this case, which has already been long.

Mr. McNeill—Do I understa d that goes as far as the whole of our documents, whether copies or originals? We can put in all the documents whether originals or copies?

His Honour—Anything you can put in under your testimony for the present.

Mr. McNeill—We canno' put in copies?

Mr. Nelson—If I can admit anything I will.

Mr. McNeill—I take exception to your ruling as to the commission at the present time, and I beg you to note it.

His Honour—Exception is taken to the

refusal to issue the commission at the present time. This log, defendants' exhibit 12, is admitted as to dates?

Mr. Nelson—Only as to dates.

His Honour—Admitted as to dates only.

Mr. McNeill—With regard to the case for the defendants, I have already said that so far as the case for the plaintiffs has already proceeded, it appears to establish something, and, of course, I should like to state quite clearly what I think it does establish, because that will show to some extent what I have got to answer. I may have to answer a great deal more, but certainly it is just as well that I should state what I think have got to answer. I think it has been proved that there was a contract between the plaintiffs and the defendants for the delivery of a cargo of lumber. That contract contained the provisions which are set out in the bill of lading. The contract was performed on the side of the plaintiffs by their actually paying the price of the goods contracted for, and the freight for the carriage of it. The contract was performed by the defendants in so far as that they did ship on board the steamer the lumber contracted for; did carry it to the port named in the bill of lading, and did subsequently, under circumstances which are in dispute, deliver it over to the plaintiffs. There was, at a time previous to the complete delivery of the cargo a dispute in regard to the demurrage. That is a short and simple statement of the dispute which arose in regard to the obligations, if any, of the plaintiffs to pay a particular sum of money under one of the clauses in the bill of lading. There was a dispute as to demurrage. The demurrage was ultimately paid under protest, as regards a portion of it, viz., £900 odd. The remainder of the demurrage was paid by a letter which states that the payment is made "without prejudice." The demurrage was either incurred, or certainly was increased, by the fact that the rate of discharge of cargo in Chefoo was slower than —I will not say it should have been—it would have been at the port originally named in the bill of lading under normal circumstances. That, I think, without any unfair omissions is the case which has been set up by the plaintiff company, and upon that statement of their case, and upon the facts which they have proved, they say that there is prima facie ground for holding that the demurrage was improperly paid. I have not founded any argument on behalf of the plaintiffs on the facts which I say have been proved, because they themselves have not thought fit to do so. I suppose by-and-by we shall hear exactly what rules of law are to be applied to these facts, and we shall know what inferences the Court is to be asked to draw. I have no means of knowing. To me it looks like this, that demurrage became payable and was paid, and therefore it ought to be paid back. That is how the case stands in my view. To meet this case one must pay some regard ultimately to the propositions of law, because we shall only have an opportunity of stating to you what our view of the law is, and there will be the reply by Mr. Nelson. To meet this case set up by the plaintiffs we have now to tell you what our view of the matter is, and why we think that the facts as established, and certain other facts that we want to establish, but which at the present the Court does not see the necessity of our establishing, will show that, so far from there being ground for ordering the restoration of the demurrage, the demurrage was properly paid under usual circumstances, and should remain in the possession of those who received it. I may say at once that the real origin of this dispute was, of course, the troubles which have occurred in the North of China. I do not think it can be said for a moment that there would have been any dispute between these two important companies had there been an opportunity of making delivery in the ordinary way at Taku. But, of course, there were those troubles, and delivery was impossible, and then followed the chain of events which has made it necessary for one side to claim demurrage and for the other side to claim that it ought never to have been paid at all. Each, as you must understand, is trying to hit the other with the losses which resulted from those unfortunate circumstances in Taku. The case for the defendant company is in great part on the letters which you have already here, in fact, if I were to say that the case as already proved was a very fair outline of the facts of the case, I should not be going beyond my instructions, and I should perhaps be giving your Honour something which would assist you in understanding what little differences of opinion there are between the plaintiffs and the defendants in regard to the details. First, it is agreed on all hands, that there was a contract. The plaintiffs rely, as I understand, entirely upon the bill of lading, and the bill of lading has been held to be evidence of a contract. It certainly is not evidence of a contract to deliver a certain quantity of lumber at a certain price, but it is evidence of a contract to carry a certain quantity of lumber to a certain place for a certain price upon certain conditions. So that it seems to me, on the face of it, it cannot be said that the bill of lading alone contains the whole of the contract between these parties. If the defendant company were a shipping firm or the agents for a line of steamers, the bill of lading would be very good evidence to prove that they had made the contract to carry the cargo upon conditions, but, as evidence of a contract made for a particular number of million feet of lumber between the plaintiffs and the defendants in this case, it is not evidence. We therefore have to go a little further back in our statement of the contract, and we say that when Mr. Wheelwright was here in August, 1899, he was in direct negotiations with the Tientsin office of the American Trading Co. in regard to the shipments of lumber. We say that the Tientsin office of the American Trading Co. was an office which was quite independent—of course we cannot establish it—but we say it was quite independent of the Shanghai office, and that these negotiations were entered into by Mr. Wheelwright with the knowledge that that office acted independently of Shanghai, and would receive and pay for the lumber quite independently, at any rate, of Shanghai. These negotiations were, as one might suppose, verbal negotiations, and during the course of those negotiations, the whole business of the Pacific Export Lumber Co. in regard to the shipment of lumber was explained in detail to Mr. Emens, who was then in charge of the business of the American Trading Co. He was told not only, of course, the amount they would be prepared to ship if he wanted it, but he was told that it would be shipped in a ship chartered by the Pacific Export Lumber Co., as they were in the habit of shipping by their own chartered vessels. He was told that they were under a liability to pay a certain amount to the owners of these chartered vessels for the use of their steamers. He was told that if by any chance the delivery of the lumber was managed by the consignees at a slower rate than 250,000 feet a day, which were the terms of their business, they were to pay a certain amount by way of demurrage, and that sum would be simply compensation to the Pacific Export Lumber Co. for the amount which they would have to pay to the owners of the steamers. All these matters were explained by Mr. Wheelwright to Mr. Emens in Tientsin. With him, Mr. Emens, in Tientsin this business originated, and ultimately with him the final telegraphic and written arrangements were made under which this cargo was shipped. It has been a matter of some surprise to me that Mr. Emens, who is the officer of the plaintiff company who negotiated this contract, should not have been asked to furnish some evidence, or some statement, or some details, which could be laid before the Court with regard to the negotia-

tion of this business. I think I may confidently say if any statement from Mr. Emens had been tendered to us showing what was the nature of the business as originally entered upon it would have been without hesitation accepted by me and Mr. Ellis on behalf of the defendant company. However, by some strange fatality the name of Mr. Emens has, I think, not been mentioned in this Court in connection with this case. That is a fair subject for comment on behalf of the defendant company who are being charged upon a dispute which arose out of that contract. That was the origin of the contract and you will see that, so far as it was originated verbally between Mr Wheelwright and Mr. Emens by the verbal statement of the conditions we are in need of Mr. Wheelwright's evidence.

His Honour—May I ask you, Mr. McNeill, as you said you would be willing to accept Mr. Emens' statement of the matter, would a commission to examine Mr. Emens in regard to this case be sufficient?

Mr McNeill—A commission taken out by the other side. I think you will see that it is a little awkward for us to call the officers of the plaintiff company as our witnesses.

His Honour—I desire to do all that is possible to avoid any large delay. If the Court issues a commission to Mr. Emens will that be sufficient.?

Mr. McNeill—I would like very much to have it, with regard to all that has passed between him and Mr. Wheelwright.

His Honour—In lieu of a commission to Mr. Wheelwright?

Mr. McNeill—Not in lieu. I am instructed not to accept it.

His Honour—I understood you to say so in your address.

Mr. McNeill—My instructions are it would not be taken in lieu. Of course what I said was had it been produced we might have accepted it. I must apologise for making a statement without sufficient instructions. We pass now from Tientsin, where we say the whole matter was negotiated, to Portland, Oregon, where, according to our view of the case, certain written orders were received, and, as far as my instructions go, in regard to each of these written orders, which was accepted by the defendant company, is a written contract which we have not got here and cannot prove, in which the whole of the conditions of the particular business are set out. Those contracts are, according to the practice of the company, filed in their head office in Portland in a particular department of their office, which I believe is carefully guarded, where written contracts in regard to all matters of business are kept.

His Honour—Of course you will pardon me, there has been time to get these here.

Mr. McNeill—We cannot prove them here, and Mr. Nelson, I believe, on a previous occasion stated that he would admit nothing in this case.

Mr. Nelson Unless it were proved—notarially proved.

His Honour—Of course Mr. Nelson is not the final referee in the case.

Mr. Ellis—We have got to be guided by him.

Mr. McNeill—We have the original documents over there, and that is what we meant by saying there are written orders, telegrams and letters which were exchanged between the parties. The telegrams received on the other side we have. Telegram received in Tientsin we have not got. The letters received on the other side we have not got here.

His Honour—Of course you can make a demand on the plaintiff company in regard to Tientsi .

Mr. McNeill—We have given them notice, and, as far as I know, they have produced everything. We have press copies of our letters.

His Honour—I will give you the widest liberty.

Mr. McNeill—I see you want us to produce everything we have got and, as far as we can, we will produce and tender in evidence what we have. I have taken you now to the point at which the contract was reduced into writing by documents which we have now in America and cannot lay before the Court. A further step was, of course, the shipment of the cargo and the issue of the bill of lading for it. Now there it is that we first come in touch with the contract as set up by the plaintiff company, and, of course, a great many of the conditions which we rely upon appear. There is the provision, in particular, for the payment of demurrage. The point I want to emphasise here is that the original understanding and the contracts that we are unable to produce show this same matter of the rate of delivery and liability for demurrage at a point in the negotiations which is much more suitable for us to take our stand upon than the bill of lading.

His Honour—Is there any dispute that the original bargain was that the lumber should be delivered at the rate of 250,000 feet a day?

Mr. Nelson—We do not know anything different from that.

His Honour—We will take it that was the original contract.

Mr. McNeill—I think we ought to state clearly what is the real matter, which does not appear in the bill of lading, and that is we have held the cargo in default of payment of demurrage. Now this matter in dispute, looked at first sight, so far as the plaintiffs contend, is simply a question of demurrage due or not due, but the thing is that, at a certain point in the dispute, we said "We will hold the cargo" and we did so, but we want to make it plain that it was understood before that, it was agreed if the demurrage was not paid, we should hold the cargo. If Mr. Nelson can make that admission then we can stand on it now.

Mr. Nelson—I have no knowledge of it.

Mr. McNeill—Of course he does not know it, and cannot admit it, and it is to establish that that we have been troubling the Court with applications to take evidence.

His Honour—I shall take very seriously into consideration allowing that.

Mr. McNeill—I think your Honour will consider we have not been quite frank about it.

His Honour—I do not expect you to give away your side of the case. As I understand you your point is that you should have the right to hold the cargo.

Mr. McNeill—Of course only to hold the cargo for demurrage lawfully due.

His Honour—I will take that into consideration.

Mr. McNeill—Having got the cargo on board the Elm Branch and the bill of lading signed, we really go forward more or less together, the plaintiffs and defendants, up to the arrival at Moran. Before I go to Moran I should like to mention that we desire to establish—as certain questions of mine to Mr. Epperly have indicated to your Honour—we desire to establish the relations between the San Francisco house of the American Trading Co. and the branches in the East. Our view of the matter is that, while the branches in the East are substantially independent of one another, the position of the San Francisco branch is analagous to that of a clearing-house of the Eastern branches; that so far as any business is transacted by them requires communication with America, it passes through the San Francisco house to take notice of; and that, roughly, notice given to the San Francisco house with regard to the business being done in the Eastern branches, or notice of the departure of a ship from America for the Eastern branches given to the San Francisco house is sufficient notice to the Eastern branches. That is one of our points and I want to make that plain.

His Honour—You are going to claim that such notice was given.

Mr. McNeill—We say that notice was

given as it is alleged in the answer. We say that on the 13th June, or thereabouts, it was notified to the San Francisco office that the steamer was departing and would be due at Taku and Mororan at specific dates. It has been alleged by the plaintiff company, in Mr. Epperly's testimony, that the first notice that the Shanghai branch had with regard to the Elm Branch was by that telegram received by them on the 4th July. We say on the 13th June, we gave notice to the company in San Francisco of the departure and ports of call of the Elm Branch, and we, at the same time, delivered to the house in San Francisco the specification of the cargo, which, so far as Mr. Epperly is aware, had not reached the Shanghai office at the time of his departure from Shanghai for Chefoo about the 20th, or a little before the 20th, of July.

His Honour—Did you give such notice in writing?

Mr. McNeill—In writing.

His Honour—Have you a copy?

Mr. McNeill—We have only got our instructions, but we can give you the date at any rate. The ship arrived at Mororan, and, with regard to what was done there, there is, I think no substantial dispute. We communicated with Portland, and we tried to communicate with Tientsin. We tried also to communicate with Messrs. Jardine, Matheson & Co.

Mr. Nelson—Where?

Mr. McNeill—Tientsin. On that there is no dispute. We were not able to communicate with Tientsin because there were no communications, it seems to me an unnecessary thing to say; but we tried and failed. But, of course, where we seem, as a matter of law to join issue with the plaintiff company here is that, while we agree the facts as to the notice we gave, or attempted to give, we do not seem to be agreed as to what the duties were of the Elm Branch. Our position with regard to that is that this notice which we gave to our charterers in Portland was a matter of ordinary duty of the captain of the ship. He arrives at a port and informs the people who have sent him out. The notice we gave forward to the consignees was a matter of pure courtesy, and we might well have abstained from doing it and thereby, perhaps, have saved a few minutes of the time likely to be occupied by this case. We did give the notice, but were not bound to do it, and it did not arrive. But we did at Mororan everything which we were in law bound to do, and a little more. This is all said with reference to paragraph 3 of the amended answer. It is, I think I may say, part of the plaintiffs' case that they had no notice. That is their position: they had no notice of the movements of this steamer. I say, in regard to that, they were not bound to have any notice at all. I admit they did not receive from Mororan notice direct, but I say they were not entitled to that, and that that question is entirely beside the point. Coming on from Mororan to Taku, we begin to get near the place, where the dispute really arose. Now at Taku, according to the plaintiffs' petition, there was a state of war. That has since been amended, and it now stands that there was what we may call a state of disturbance. The captain conducted the ship to the port of Taku where a state of disturbance existed, and it is suggested that in taking the ship to that port he did a thing which in some ways was a wrong and improper thing, and which may be relied upon as disentitling the ship to demurrage. Now the port of Taku is, it must be noticed, the port named in the bill of lading. The captain arrived at Mororan, on the 1st July, and, at Mororan, according to our view of the case, he might have been communicated with both by the charterers, the Pacific Export Lumber Co., and by the American Trading Co., either from their San Francisco house or by their Shanghai house, acting upon notice received from San Francisco. The point is this really. There was a state of things going on at Taku when the ship arrived at Mororan which was well-known to all the people interested, as a fact; both in Shanghai, in Portland, in San Francisco and at Mororan it was known there was disturbance at Taku. There was no person concerned, from the American Trading Co., at either of its offices down to the captain of this ship who was not aware that there was some kind of trouble going on at Taku. But, in order to make the suggestion that he took the ship improperly to Taku of any value, it must be shown that there was more in the captain's mind than the knowledge, and more in the charterers' mind than the knowledge that there was a state of trouble. It is really admitted now by Mr. Nelson upon information which I believe he has, that the American Government had declared at that time that there was no state of war at Taku. That, I believe, is not in dispute, and I do not think that this Court will decide contrary to that. I do not know whether your Honour has official information to that effect, anyhow, I think it is agreed between the parties, that at that time there was no state of war, but rather a state of disturbance at Taku. Was the captain then in any way justified in taking his ship to Taku, or should he have stopped where he was, or gone somewhere else?

His Honour—There is nothing in the petition criticising the captain at Mororan.

Mr. McNeill—There is not, but we have not got to the inferences of law. However, we are supposing that it is going to be suggested we had no right to go to Taku because there was a state of disturbance. Well, these contracts in a bill of lading are very awkward things.

His Honour—I would suggest you reserve this opening speech to the matters of fact, and leave all these questions of law to your closing speech.

Mr. McNeill—If I can save them here I shall be very happy.

His Honour—That is our practice.

Mr. McNeill—I defer to your ruling.

Mr. Nelson—That was my intention; if there was any rebutting evidence that might be offered, Mr. McNeill would address the Court on the points of law, and I would reply.

Mr. McNeill—Perhaps I may go into it at too great length, but I desire to make clear how we look at the case, and with regard to the evidence we desire to call.

His Honour—I will leave it to you.

Mr. McNeill—If you think I am wasting time—

His Honour—Only do not do it twice.

Mr. McNeill—Your Honour will allow me to state briefly the case from a legal point of view as we consider it, and then refer to it again. With regard to this taking of the ship to Taku, we say the bill of lading is evidence of a binding contract to deliver this cargo to Taku, and that this contract must be carried out in the absence of certain matters which would justify us in breaking it; that no such matter was known to us at the time, and that no such matter existed at the time. There was a state of disturbance and no state of war and, accordingly, we proceeded to the port of delivery. When we got to Taku, I say confidently that, there being no state of war, the ship of having arrived at the port mentioned in the bill of lading, she was entitled, so far as her legal liability goes, to let down her anchor and wait until somebody came and asked if she had not got on board some lumber for the American Trading Co. She was not bound to notify her arrival, because it is a well-established principle of law, whereas the owner or charterer is bound to give notice of where the ship is to take cargo on board, he is not bound to give notice where she is to deliver it. He has got simply to sit tight and wait; to have his ship approached and be asked to deliver the cargo. We did not do that. The captain, as a matter of fact, was not shut out of the port. He got to Taku within the meaning

of the bill of lading. But he received two communications which I think I may be allowed to put in now. One is a letter from Admiral Bruce. the British admiral, and the other is a certified extract from the memorandum addressed by the Customs officer at Taku to the Commissioner at Chefoo.

His Honour—Have you any objection to this, Mr. Nelson?

Mr. Nelson I do not think this can be admitted because his protest is the proper document which is signed at Chefoo.

Mr. McNeill—It is an extract from the memorandum addressed by the man at Taku to the man at Chefoo.

His Honour—Both of these will be admitted. (Defendants' exhibits 13 and 14.) I think you have got to a place in your argument where we might stop for the night. You have gotten the ship to Taku, and I will adjourn the Court until two o'clock to-morrow.

Mr. McNeill—To-morrow, of cou se I shall have finished my opening, and I shall of course call Mr. Wardle. That will be all the evidence we have got here.

The Court then rose for the day.

SHANGHAI, 16th May, 1901.

Upon the Court resuming,

Mr. McNeill said—Before I take the ship any further than Taku I should just like to state again in two words the position we take. We consider that a certain number of facts have been proved, With regard to the payment of demurrage; upon those facts the defendants say they have made out a prima facie case for the refund of the money paid. We, of course, entirely deny that any kind of prima facie case has been made out, but, as we have been ordered to open our case and make our defence we feel bound, of course, to show all the things which prove that from the beginning to the end—

His Honour—Mr. Reporter, you will please make "as we have been ordered to begin our defence." "as we have begun our defence."

Mr. McNeill—If your Honour pleases. We think it necessary to show all the facts which prove from beginning to end we have acted rightly, and if, of course, no contrary contention is made out the case for the plaintiffs falls to the ground. It naturally seems to us a little difficult, when in our opinion no prima facie case has been made out, we should have to set up something for the plaintiffs to hammer at; but still there it is, and we are going to do it. We have got the ship at Taku. She has been advised, almost more than advised, by the British Admiral and Commissioner of Customs to give up the idea of discharging her cargo at the port. Now you will easily see in these circumstances the captain had to make up his mind what he was going to do, and he had to come to some conclusion what else he was to do. The charter-party which has been referred to, contains if I may say so, as of course I can only put in a copy of it and have no witnesses to prove the original, the charter-party contains the very customary clause the ship shall not be obliged to go into ports where a state of hostilities exist, or which are in a state of blockade. The p rt was not in a state of blockade, and if one may take a state of hostilities as amounting to a state of war it was not in a state of hostilities, but the captain cannot have helped feeling that to some extent, as agent for the owners of the ship, it was perhaps a not very wise thing for him to continue in that port in the face of this strong recommendation which he had received. I do not labour that point, but I merely wish to point out that besides the duty he owed to the charterers, and the duty a captain of a ship always owes to the consignees of the cargo he had also a duty to the owners of the ship which may to some extent have weighed upon him in making up his mind. However, the fact was he decided to go to Chefoo, which, from the point of view of the charterers of the ship, was the nearest port to the port of Taku—the port named in the bill of lading, and, so far as he was acting as agent of the charterers, he carried out the direct terms on the contract evidenced by the bill of lading. It has been suggested, why I really do not know, that he ought to have proceeded under these circumstances, to the port of Talienwan. Now, I take it from what Mr. Epperly said that port is an extremely good port of discharge. He stated that you sometimes get a rate of discharge of 300,0 0 feet a day. On the other hand, Talienwan did not happen to be the nearest port to the port of discharge named in the bill of lading, and, moreover, it happened t· be also, if we may accept the evidence,—and I certainly accept it—of Mr. Wake, a witness for the plaintiff company, it was not in communication with Shanghai. It was not at that time in communication with Tientsin, and, had the captain gone there, as has been lat ly suggested, he would have been departing from what the consignees of the cargo considered to be the proper measures for him to adopt, The telegram which they addressed to Messrs. Fergusson & Co., required their correspondents or agents, Fergusson and Co., to communicate with the captain and tell him if he could, to communicate with Tientsin, and, if he could not, to communicate with Shanghai. You will readily perceive that the removal of the ship from Taku to Talienwan would not conduce to either of those very desirable results, viz., getting into communication with Tientsin or Shanghai, and that, in removing the ship to Chefoo. he did actually do what the consignees at the time thought was the right and proper thing for him to do. The ship was therefore moved from Taku to Chefoo. It seems to me, up to that point at any rate, that nothing which can be called wrong had been done on the part of the Elm Branch and her charterers, and, on the contrary they had done everything which by their contracts they were obliged to do. The ship, therefore, is at Chefoo. The question therefore arises, what took place at Chefoo which was of such on improper nature that the demurrage which was paid at Chefoo ought to be refunded. Now, when the captain got to Chefoo he took immediate steps to communicate with Shanghai. That was in direct accordance with instructions which might have reached him by letter from Fergusson & Co., but which did not reach him; but he did at any rate, take the measures desired by the consignees, communicating with Shanghai and asking for instructions. At the same time he gave notice as to the period on which lay-days commenced, that is to say, from the arrival of the ship at the port of discharge, Taku. The captain took pains to communicate immediately with the consignees of the cargo as represented by the branch office of the American Trading Co. at Shanghai. Now, it must be perfectly plain if there is anything in the suggestion the ship should have been taken to Talienwan, it was within the power of the American Trading Co, at Shanghai to request she should be taken from Chefoo to Talienwan. As a matter of fact, after some considerable amount of correspondence, the ship was ultimately ordered by the American Trading Co. to be discharged at Chefoo. That is to say, that after telegrams and letters had passed between them and Fergusson & Co, whom they had first addressed on t· e subject, of discharging the ship, after these letters and telegrams passed, they gave instructions by wire to discharge the ship at Chefoo. Up to this time, of course, while the captain being at a port other than the port of discharge was waiting for instructions as to what he was to do with the cargo which was due for delivery to the consignees he did nothing. He wanted to be told what to do, and after some little time it was stated by the American Trading Co., that they had not got the specifications of the cargo, and did not know what the timber was. That was no concern of his. It was a regrettable thing they did not know what they ought to tell him to do, but you will bear in mind that it has been alleged and

will be proved that this specification had been delivered a long time before to the San Francisco house of the American Trading Co. I do not say that they were at that time actually in possession of the American Trading Co., at Shanghai; I believe they were, but I am not in a position to prove it, and the only witness called says he does not know whether they were ever received at all. At any rate, after this little period of delay instructions were given for discharging the ship at Chefoo. And what so far as had happened was wrong on the part of the captain as acting for the charterers of the ship? Having got instructions to discharge he made arrangements with the company engaged in that kind of business which was recommended to him by Fergusson & Co., part owners of the concern. He made arrangements for getting the work done which was necessary to enable him to put the cargo over the side, which is the place where he was bound to put it in order that the consignees might take delivery, and, I will ask your Honour, to note that no suggestion has been made throughout that so far as the ship was concerned she was not able and ready at all times to deliver as much cargo as the consignees were able to take delivery of. If any doubt exists on that point I would ask leave to put in a letter which is certainly one I cannot prove, but which is a letter from the stevedore, Mr. Curtis, stating his reasons why at one time, the one day as noted in the log, the discharge was suspended. I will ask, in accordance with the ruling in this case, whether Mr. Nelson will admit this letter of Mr. Curtis.

Mr. Nelson.—I do not think any suggestion has been made against the ship at all.

Mr. McNeill—If that is so then I will not bother about it; I do not press it.

His Honour.—Defendants' exhibit 15 is admitted by consent.

Mr. McNeill.—The captain then made the arrangement with the Chefoo Lighter Co. for doing the last part of the work that lay upon the ship, and that part was done. Fergusson & Co., acting on behalf of the American Trading Co. made the arrangements on their part which were necessary to ensure receipt of the cargo by the consignees, and the discharge started. Then, in due course, as might have been expected after the long delay which had ensued between the arrival of the ship at Chefoo, lay-days ran out. Just when the lay-days ran out is a matter for very simple calculation indeed. The ship carries on board so many million feet of lumber, and she has to discharge at the rate of 250,000 feet per day. The lay-days run out at the time when, had she discharged 250,000 feet a day, she would have been clear so far as regards the cargo which was deliverable at Taku. That was the time when the lay-days expired. The captain, again I say acting in all respects with propriety, gave notice on the 23rd of July to the agents, Fergusson & Co. that the lay-days for Taku cargo expired on Wednesday last, 18th July, and that up to that date no demurrage had been paid, and he thereupon requested that demurrage should be paid up to date. The fact is the bill of lading provides very distinctly for the way in which demurrage is to be paid. It does not say the ship is to discharge at a certain rate per day and if she does not then when she is fully discharged a certain sum shall be payable; it says, on the contrary, she is to discharge at the rate of 250,000 feet a day, and, if not, a certain fixed sum becomes payable day by day to the charterers of the ship. The captain gives this notice that the lay-days had expired and the demurrage which had begun to be due on the 18th had run on to the 23rd; had not been paid day by day, but, on the contrary, had accumulated to a very large extent, and he subsequently gave notice failing the payment of demurrage that he would be under the necessity of holding the cargo. He delayed giving this notice to really the last point at which the notice could be given with any propriety, that is, until he no longer had on board the ship more than enough cargo to satisfy the demands of those for whom he was acting. The demurrage which was due, and, with regard to which he stated that he would be obliged to hold the cargo, if it was not paid, remained due until the notice which he had given expired. From that time forward for many days no steps were taken on the part of the captain to do anything. On shore things were different. There was a good deal done on shore. What was done on shore we do not know. Mr. Epperly, who was, I understand, prepared to give some testimony with regard to it, did not, as a fact, give any testimony regarding anything that was done on shore at that time. We think it likely, but we cannot prove, that there was a good deal that passed between Mr. Epperly, the agent at that time of the American Trading Co. in Chefoo, and his principals in Shanghai. We think it likely he made representations to them as to what was happening, and asked for instructions; and we think it likely they addressed him in reply, and that they declined to give him instructions, or gave him some—what they were we do not know. At any rate, the cargo was actually not handled at all between the 28th July and the 6th August; the captain all the time waiting on until his claim for demurrage should be satisfied; the consignees occupying themselves in some way unknown to us. Now, between the time at which this cargo ceased to be worked on account of non-payment of the claim for demurrage and the time when the ship began to be worked again, something happened which is of considerable importance. Whether as a result of correspondence between Mr. Epperly and the American Trading Co. in Shanghai, or possibly between Mr. Epperly and San Francisco or New York offices of the company, anyhow, for some reason it became apparent to the American Trading Co. that at this rate they were leading a rather expensive existence. They had a lot of cargo on board the ship and were really doing nothing to take delivery, and although I suppose they had made up their mind when they did pay the amount, or if they did pay the amount of demurrage they would pay it under protest, they were certainly not prepared to allow this amount to swell to an immense sum and take the chance of that in the courts of their country. They eventually made up their mind that it was not worth while to leave that cargo undischarged any longer. What they did was that Mr. Epperly sent a telegram to Shanghai that they should communicate with Portland and ask them whether they would carry the remaining undischarged cargo to Talienwan, which, to Mr. Epperly's knowledge, was a good port for discharging. He sent to Shanghai a wire, which I believe is in evidence; I think it has been put in.

His Honour—Yes. Mr. Epperly tele-

graphed 2nd August, and the American Trading Co. telegraphed to Wheelwright, and Wheelwright replied, and they telegraphed to Epperly.

Mr. McNeill.—Therefore the American Trading Co. in Shanghai sent the wire to Portland saying, "The Elm Branch now discharging Chefoo; what is the best rate you can offer if cargo is re-shipped same steamer to Talienwan?" And they subsequently received a reply from Portland, as a result of receiving which they telegraphed to Mr. Epperly that the "cargo not yet discharged would be carried to Talienwan on the same conditions as before; if you have accepted conditions cable me. Lay-days to commence from the time of arrival at Taku. Demurrage and all extra expenses to be paid by you." That is to say, the American Trading Co., as the result of Mr. Epperly's suggestion sent a wire to Portland which dealt with the cargo already discharged, and received from Portland an answer not dealing with the cargo already discharged but making to them a distinct offer, as to dealing with the cargo which was not yet discharged. This offer, which the American Trading Co. in Shanghai received from Portland they passed on to their agent, Mr. Epperly, who was on the spot and arranging for the handling of the cargo. Now, Mr. Epperly was instructed by that telegram which he received from his principals in Shanghai practically to see the cable which had been sent by the Portland office to the captain of the ship, and according to his frank testimony he did, as a matter of fact, see the telegram which the captain had received, and thereupon the parties were in possession of the terms upon which one of them was making an offer which the other could accept or refuse. There was no longer at that time any question about the cargo which had been discharged. It was a question upon what terms the Pacific Export Lumber Co., were willing to carry the undischarged cargo from Chefoo to Talienwan. The terms were distinctly stated in the telegram, and they were these: "We will take your undischarged cargo from the place where it now is, Chefoo, and will carry it to Talienwan upon the same conditions as those upon which we brought the cargo to Taku. And we will do so upon this further condition, that you make a full compliance with the aforesaid conditions as regards the cargo which has been already dealt with and the contract under the bill of lading satisfied by delivery." Now all this occurred before the payment was made of the demurrage, which have already accrued. The demurrage was paid, and the ship was ordered to proceed to Talienwan. With regard to that our position is distinct and definite. We say the demurrage was due, at any rate. We say, further, that a payment of the demurrage under protest—although an unwise thing to do, because the proper thing to do is, if you do not think money due do not pay it, but still, the payment under protest would have been not wholly unreasonable under the circumstances as they existed before this offer was made and accepted—when this offer was made—and it was made one of the conditions that there should be a payment of demurrage—it is different, and when that demurrage was paid, and the offer was accepted, that sum of money claimed fell under new and much more stringent and different conditions, which no statement to the effect that it was paid under protest could in any way affect. You can easily see if there is due from A to B a sum of money, the liability for which A disputes, so long as the conditions remain that there is a contract under which B is claiming and A has to pay, A for some purposes settles matters by making a payment under protest. If, besides that contract, there is a further contract which makes it a condition that the money due shall be paid, it is perfectly clear that there can be no compliance with that new contract by a payment under protest, which would have been for some purposes an adjustment of matters under the old one and would have left the question open whether the money was due or not. We rely, to the fullest extent with regard to this payment of demurrage upon the new conditions set up by the telegraphic offer made for the carriage of the undischarged cargo and the acceptance of that offer by the order that the ship should proceed to Talienwan. That, of course, I need hardly say, is what we mean when we say the protest was withdrawn. The protest had been made, with regard to money due, under this contract, but also, I believe, under another and more stringent contract. The ship goes to Talienwan with Mr. Epperly on board, and, so far as the actual Talienwan cargo goes, no question arises at all. Talienwan, I take it, proved to be as good a port, or nearly as good a port, as Mr. Epperly had expected, and the cargo was got out pretty quickly, of course demurrage still running with respect to the Taku cargo, and a balance of freight, 10 per cent. which you will remember was due, was paid in the way which has already been described. It was paid by a letter addressed to Captain Iliff, instructing him to obtain payment from Fergusson & Co., and at the bottom were written the words "without prejudice." I decline to attach any meaning to words of that kind which are set at the foot of a document which is written and signed in pursuance of a contract which began with an offer that certain things should be done, and is subsequently carried out by the other party on the faith that these things will be done. It appears to me, if I may say so, certainly an unbusinesslike suggestion that you can make contracts with people which, of course, being made by telegraph are necessarily incomplete, which distinctly state, "I will do so and so if you will do so and so," and that you can accept that contract, order the man to do the thing which he said he will do if you will do yours, and then come back and say "All the things I did on my part were done, of course, without prejudice and I intend to have the law of you." That suggestion—I am using the mildest word that occurs at the moment—is certainly unbusinesslike and not in accordance, I believe, with the best principles of commerce and one which, I think, will hardly hold good in this Court. There is little else to remark. The authority of Captain Iliff enabled Mr. Wardle to receive payment of the money, and beyond the fact that there was some attempt to bring about a settlement between the parties we next hear of the matter as the case now in this Court. As I have already stated, the only evidence I have here is the evidence

which has already gone on the file in the shape of the documents put in on our behalf, and of course we rely for what they are worth on the documents put in by the other side. We have certain original documents which we are prepared to tender if your Honour will receive them. They are telegrams which passed between the Portland office and the captain of the Elm Branch with regard to the dispute. I will hand them all in to you. There are eight original telegrams.

His Honour.—Have you any objection to these, Mr. Nelson?

Mr. Nelson—I have not seen them, your Honour.

His Honour—I see no objection to any of these unless Mr. Nelson has any objection to offer. The last two are exactly the same as we have already got in. Defendants' exhibits 16, 17, 18, 19, 20, and 21, admitted by consent.

Mr. McNeill.—Briefly to recapitulate what I have said. Under a contract, of which one of the conditions was that delivery of the cargo of lumber should be taken at a certain rate, and that, upon failure, demurrage should be paid at a certain rate, and not being paid the cargo should be held until it was, a cargo of lumber was shipped and left Portland on the 12th of June. Notice of the departure of the ship was given to the San Francisco office of the plaintiff company on the 13th June. They were handed the specification of the cargo. At the same time they were informed during the course of the voyage the ship would call at Mororan. The ship arrived at Mororan, and her arrival at Mororan was notified to her charterers, and also was attempted to be notified to Tientsin, where her consignees were supposed to be. The ship proceeded from Mororan to Taku, the port named in the bill of lading. Arrived at Taku the captain found it impossible to discharge and, in the interest of all parties, went to the nearest port and asked the consignees for orders. The consignees, after a delay of several days, gave orders to discharge the ship at Chefoo. The lay-days provided by the bill of lading ran out and demurrage accrued due in a large amount and was not paid. The cargo was held until it was paid. Before it was paid a new contract was entered into between the plaintiff company and the defendant company for the carriage to a port not in the bill of lading, and not being Chefoo, of the undischarged portion of the Taku cargo. Under that new contract one of the terms was that the demurrage already due should be paid. It was paid. The ship went to Talienwan to discharge her cargo, and the balance of the demurrage which had accrued in the meantime was paid. The contention of the plaintiffs is that this demurrage should be refunded. I ask the Court, in view of what I have said, and what has been proved, what there is which entitles the plaintiffs to recover this demurrage. We shall now call what evidence we have, which consists entirely of Mr. Wardle, who, as your Honour knows, does not come into the matter until pretty far on in the day, and such documents as he may be able to testify to.

Mr. Wardle was then duly sworn.

Examined by Mr. Ellis—

What is your position with regard to the defendant company?—I am Vice-President.

Were you in Portland at the time when the Elm Branch was despatched?—I was.

Can you tell the Court, are you personally cognisant of any dealings of your company at this time with the plaintiff company with regard to this matter?—I am.

Will you state what your knowledge of this amounts to?—Upon the despatch of the ship we followed our usual custom and made a draft upon the American Trading Co. in San Francisco, as usual, for approximately $75,000 attaching to the draft the insurance policy and endorsed bill of lading drawn to order, and sent it by mail to the London and San Francisco Bank for collection, at the same time despatching to the American Trading Co. in duplicate invoices, memorandum of freight, and specification of the cargo. I followed the next day to San Francisco and received a telegram from Mr. Wheelwright saying there had been an unexpected delay in the acceptance of the draft by the American Trading Co., and asking me to see our bankers and see that the proper payment was made, which I did, and found it was some little delay between the Hongkong Bank and the American Trading Co. in making their arrangements, and in the afternoon it was settled and the amount was paid.

His Honour.—That was on what date?

Witness.—The same date. It was either the 13th or the 14th of June. I left Portland on the 13th and that would bring me to San Francisco on the 14th.

Examination continued—

Can you tell the Court from your own personal knowledge what is your company's method of doing business with the plaintiff company in the Far East?—We always do our business through the San Francisco house, sending the notification and specification of cargo to the American Trading Co. in San Francisco and drawing upon them there, and they making the settlement.

They make all the payments?—They make the payments. We have always done that in that way.

When did you leave San Francisco?—On the 22nd June by the s.s. China.

And where did you proceed to after leaving San Francisco? Did you come straight to China, or did you stop anywhere else?—I stopped in Japan, at Yokohama.

How long did you stop there?—I do not know; about a fortnight.

And then whence did you proceed?—To Nagasaki by train, and thence to Port Arthur.

When you were at Port Arthur did you receive any communication from anybody?—I received a message from Capt. Iliff reporting himself at Talienwan, of which fact I was ignorant at the time, and asking me to come over as his discharging was about completed and his charter was expiring; asking me to come over and take over the unfinished business of the ship.

Was that by wire or letter?—I think it came through our agents at the time, Kunst and Albers, of Port Arthur. I cannot trust my memory.

Anyhow, did you go to Talienwan?—I went there on the 14th August.

And then did you take over the ship's papers and other documents?—I did.

And most of those documents are the documents handed in by us during the

course of this case?—Yes.

Just let me ask you with regard to the Elm Branch; she left Portland on 13th June, I think?—The 12th, I think it was.

She called at Mororan. Did your company take any steps to divert the ship at Mororan?—No, but we asked the San Francisco house if they wished to divert her. They said they had nothing to say in the matter, and if they had any instructions from Shanghai they would let us know. I cannot trust my memory with the exact nature of that communication.

His Honour.—When was that?

Witness.—That was between her leaving Portland and her arrival at Mororan.

His Honour.—Was it before or after you had sailed?

Witness.—It was after I had sailed.

His Honour.—Strike out that entire answer, Mr. Reporter.

Mr. Ellis.—What does your Honour take exception to?

His Honour.—How can he know what happened when he was on the ocean? He must take it at second-hand from somebody.

Mr. Ellis.—Quite so. He may have received communications from Portland. He says that, as a matter of fact, it was.

His Honour.—You can take exception to my ruling.

Mr. Ellis.—I take an exception. He says that as a matter of fact he knows—

His Honour.—Ask him how he knows.

Mr. Ellis.—How did you know?

Witness.—In the same way that I know a great deal of our business affairs, by communications between Mr. Wheelwright and myself.

His Honour.—You got it from Mr. Wheelwright that he did notify San Francisco. Question and answer overruled. Exception noted.

Examination continued—

With regard to the ship going to Taku, why did she go there?—We were under contract obligations to send her there.

Can you tell the Court of any similar instances when you felt you were obliged to stand by your contract obligations with regard to this company?

His Honour.—Absolutely unnecessary.

Mr. Ellis.—Well, I would like to have that question put because it is with regard to a contract for lumber carried by a steamer that was chartered by the defendant company for the plaintiff company and similar circumstances arose with regard to the diversion of the ship from the port to which she was to go under her bill of landing, and the circumstances which arose which justified the defendant company taking the steps which they did, which were exactly similar to these. I want to ask the question to show that the company acted in a proper way on this occasion as they did. If you overrule it I have nothing to do except to take exception to the overruling, and I want the exception noted. Mr. Wardle is prepared to tell the circumstances. He was personally concerned in this matter, and it took place at about exactly the same time.

His Honour.—That is a ship going to Taku?

Mr. Ellis.—The ship was going to Newchwang.

Mr. Nelson.—There was no cross-examination about this of my witnesses, which is customary in such a case. Anyway, it is not relevant.

His Honour.—You will tell us briefly.

Mr. Ellis.—I think it will assist the Court.

Witness.—Within a week of shipping the Elm Branch cargo to Taku we had another ship, the Inverness, leaving Portland and in her bottom was a million feet for Newchwang. When I was at Yokohama Mr. Morse asked me whether the Inverness was going to her bill of lading port, and I said she had no option but to go there unless he wished to take the responsibility of ordering her elsewhere, which he declined to do, and after taking advice on the subject I ordered the ship to carry out the terms of her bill of lading and to proceed to Newchwang. She did proceed there. Discharging was very slow there; she incurred £800 and over on demurrage which was paid by the American Trading Co. in September of the same year, one month later, without protest of any kind, and for which no reclamation has ever been made.

His Honour.—It stands as a matter of information.

Examination continued.—

When did you leave Talienwan after taking over the ship's papers from Capt. Iliff?—Immediately, by the very first boat.

And to what place did you go after leaving Talienwan?—First to Port Arthur and then Chefoo.

What did you go to Chefoo for?—To collect the balance of the demurrage and the balance of the freight.

And to whom did you go for the purpose of collecting these monies?—The parties to whom Captain Iliff had directed me, Messrs. Fergusson & Co. as agents for the American Trading Co.

Did Mr. Wake pay you the money?—He did.

Did he pay it you under any conditions?—No conditions; without protest.

His Honour.—Which was that?

Mr. Ellis.—That was the balance, £387 3s 9d. The other was made to the captain, you will recollect, through the American Consul.

Examination continued.—

Now I would just like you to state to the Court your own personal knowledge how your company does business in regard to contracts of this kind?—Will you please make that more explicit; what portion of the contract?

With regard to the question of collecting demurrage?—We have a uniform custom. All our lumber is sold subject to certain terms and conditions, amongst others a fixed rate of discharge, usually 250,000 feet a day taken from the ship's tackles, one clause in regard to the demurrage, that after lay-days demurrage is to be paid at the rate of 6d. a net ton register day by day, paid in advance, and we have carried all our business in China and elsewhere on that line.

Can you state any cases before this incident of the Elm Branch demurrage?—I would like to amend my previous statement by adding that wherever any concession is made from these terms as to the rate of demurrage it is a matter of special agreement, and, of course it goes into the price named. We sometimes make a long price without demurrage, or no rate of discharge, but in that case we figure it on that scale of 250,000 feet a day, and we name a price which is sufficient to compensate us for the ship's time and detention.

I was asking you whether you could

state any cases where you carried out these methods of general business with regard to the demurrage before this case of the Elm Branch?—We had a demurrage case with the American Trading Co. at Talienwan and Port Arthur by the same ship on her previous voyage with which, I believe, something like £500 or £600 of demurrage was paid. We had a case of demurrage with the Guernsey, at Newchwang, and in the case we waived our claim sufficiently to let the cargo be landed on a promise to pay, and we have never been able to collect the money since.

Was that with the American Trading Co.?—Yes, and that explains part of our rigidity in this matter.

And since then have there been any instances where you have claimed demurrage and threatened to hold the cargo?—No.

His Honour.—Mr. Ellis, they certainly have a lien on the cargo; there is no necessity to prove that.

Mr. Ellis.—There is one letter I would like to put in to prove that apparently the captain did try to communicate with Tientsin. It is a letter from Mr. Cousens, and addressed to Captain Iliff. How did you come into possession of it?—Jardine Matheson & Co., our agents at Tientsin, gave it to me.

His Honour.—I will have it in, Mr. Ellis, if you desire it. Defendants' exhibit 22 admitted.

Mr. Ellis.—There is just one point I would like to deal with now, and that is I want to put in here, in order that it may form part of the record, letters from Capt. Iliff, and Mr. Wardle will tell you how he came into possession of them. Most of them are in, but there are a few I would like to put in.

His Honour.—Defendants' exhibit 23 admitted by consent.

Cross-examination by Mr. Nelson.—

When did you arrive in Japan?—On the 11th of July.

Yokohama?—Yes.

I suppose you very soon after that saw Mr. Morse, the President of the American Trading Co.?—I presume I met him at the Club within a day or two of my arrival.

When did you first hear anything with regard to the Elm Branch after you had left Portland? When did you hear anything about her in China after she had left? What was the first occasion you heard anything about her?—I really do not know.

I would like you to try and cudgel your brains a little bit—I cannot answer definitely. I presume Mr. Morse and I talked both about the Inverness and the Elm Branch. I cannot recollect what was said except the statement Mr. Morse made that he thought Tientsin——

What was the first you heard of the Elm Branch in either Japan or Taku or Talienwan or Port Arthur; the first you heard of her after she started on her voyage?—I cannot answer that question.

Can you give me an approximate idea?—As to her actual whereabouts and movements?

Yes—I think my first intimation was the message from the captain when I was at Port Arthur, saying he was at Talienwan.

Cross-examination continued—

Do you think you could have received a telegram when you were in Yokohama as to the Elm Branch being at Taku on the 7th?—It is quite possible. I might have done. I do not remember.

When you were at Port Arthur I believe Mr. Epperly told you the ship was at Talienwan?—Yes. I say I do not recollect how it came to me, but it may have been through Mr. Epperly.

The witness' examination concluded.

Mr. McNeill.—Then we come back to the original position. We have called the only witness, and now the question arises whether we are to be allowed to have the other witnesses.

His Honour.—Will you make your motion, Mr. McNeill, and the form will be to ask that a commission be issued to take these gentlemen's evidence, specifying the reasons, and what you expect to prove.

Mr. McNeill.—Are we to state the exact facts? That amounts to saying we must not examine the gentlemen on a specific fact.

His Honour.—I wish you to give me your reason for a commission, then when a commission is issued anything can be asked, of course.

Mr. McNeill.—You want me to specify the reasons?

His Honour.—If you are not prepared to do it now I will give you to 10 o'clock to-morrow morning, and then I will ask you to make the motion in writing.

Mr. Nelson.—May I ask your Honour, I take it, of course, if Mr. McNeill's motion succeeds the case would stand adjourned. If he does not succeed, you will proceed to wind up the case.

His Honour.—It is a fair presumption.

Mr. McNeill.—Unless Mr. Nelson is going to call Mr. Ball.

Mr. Nelson.—I have nothing to ask Mr. Ball.

Mr. McNeill.—Might I ask you whether in your opinion it will be our duty to call Mr. Ball or not? The general rule is the plaintiffs call their own witness.

His Honour.—Mr. McNeill, you can call Mr. Ball or anyone you like.

Mr. McNeill.—I want to get it definitely whether he is going to call Mr. Ball.

Mr. Nelson.—I do not see anything to call him for.

Mr. McNeill.—We cannot get this particular evidence as to the relations between the branches without Mr. Ball. He is the only person who can tell.

His Honour.—Mr. Edwards might be able to testify as well. He is the Sub-Agent. You can call him if you like.

The Court then adjourned.

SHANGHAI, 17th May, 1901.

Upon the Court resuming,

Mr. McNeill said—I have really very little to say. I have endeavoured to put what I desire in writing—this application for a commission—and to state the specific facts upon which the application rests. I understand from your Honour that you desire us to tell you exactly what it was that we considered we were going to prove by means of this testimony which would justfy you in granting us a commission to take it, but that, of course, if a commission were granted we should be able to examine our witnesses like any other witnesses. I really have nothing to say on the facts, except these are the facts which, as far as we can make out, have not been proved or admitted and, with regard to which we desire to take the testimony of Mr. Wheelwright and Capt. Iliff.

His Honour.—Mr. Nelson, do you wish to be heard? Do you object to the issue

of this commission?

Mr. Nelson.—I do.

His Honour.—Give me your reasons.

Mr. Nelson.—In regard to the first ground, notice alleged to have been given could have been very clearly proved by some document or affidavit or statutory declaration. As to a small matter like that, even if that notice were given I say it is practically immaterial to this case. Possibly it was given. It is a reasonable thing to consider that, when the draft was paid, it was given. With regard to the relations between the Portland office and the defendant company and the San Francisco office, I do not think that has anything to do with it. We most stand entirely upon the contract, the bill of lading. Communications of the defendant company and the United States Government have nothing whatever to do with this. The government should take care of American cargo, but this was a British ship carrying cargo and would be under ordinary protection. As to the next one, I do not understand it. There has never been any suggestion about it, and nothing in cross-examination has been adduced, and I do not see anything in the answer either. With regard to the contracts, I say the bill of lading most stand absolutely by itself.

His Honour.—I do not care to hear you on that point. Captain Iliff?

Mr. Nelson.—In regard to Captain Iliff I think, as I was going to say, it is a very curious thing that Captains Iliff's letters, copies of letters, and a large amount of correspondence is in the custody and control and has been shown to the Court by the defendants, and they have also had Mr. Wake here; he was the agent for the steamer and he acted in the matter, and they did not ask anything at all as to these questions from Mr. Wake. Surely they might have been able to get that from Mr. Wake who was there as agent. They say he was agent for both; I say he was agent for the ship, and surely all the evidence they want is there. I have admitted press copies, your Honour has admitted press copies, and given every latitude. I do not see any grounds why the commission should issue.

His Honour.—I will take this paragraph by paragraph. Of course, I have seen this within the last five minutes and I must reserve my right, whilst now giving an off-hand opinion, if necessary to write it out and put it on record later. You desire to examine Mr. Wheelwright as to

Notice alleged to have been given on or about the 13th day of June, 1900, by the defendant company to the San Francisco office of the plaintiff company of the sailing of the s.s. Elm Branch from Portland and her due dates at Mororan, Japan, and Taku, China and the receipt of such notice by such office and as to the despatch from Portland to the said San Francisco office of specifications of the cargo of the said s.s. Elm Branch and the receipt of such specifications by such office.

As to the facts alleged in that paragraph, Mr. Wardle has already given testimony on that point and been uncontradicted. I fail to see the necessity of any further proof on that point.

As to the relations between the Portland office of the defendant company and the San Francisco office of the plaintiff company in regard to business in the Far East.

I must say, before I touch that paragraph, that the issues in this case, as they appear to the Court at the present time, are not as to the contract of purchase and sale except in so far as that contract is set out in this bill of lading, and the justice and propriety of demurrage paid, which must be argued from the bill of lading and the conditions which arose when it came to carrying out that portion of the bill of lading. For example, the cost of the lumber is a matter of absolute immateriality; the shipping of the lumber, the financial transactions connected with it do not exist so far as this demurrage is concerned. I do not understand that it is set forth in the pleadings, as I remember them, nor has it been brought out in testimony at all, that the San Francisco office of the plaintiff company has had anything to do with this payment of the demurrage. That being the fact I see no reason why the commission should issue on paragraph 2.

Mr. McNeill.—With regard to the first paragraph, Mr. Wardle has given testimony as to the despatch of this notice to San Francisco. We have no notice that it was received at all, and we have no evidence here, beyond Mr. Wardle's, of the relations between the branches.

His Honour.—And I will say further, in regard to the first paragraph, I consider it absolutely immaterial to the case.

Mr. McNeill.—As to notice?

His Honour.—Yes, as to notice of shipment. Paragraph 3:

As to communications between the defendant company and the United States government at Washington with reference to the propriety and safety of the said s.s. Elm Branch completing her voyage to Taku.

I consider that immaterial to the case. Paragraph 4:

As to the option alleged to have been given subsequent to the said 13th June, 1900, by the defendant company to the said plaintiff company's office at San Francisco of diverting the said s.s. Elm Branch from Taku to such port as they might select, and as to the failure of the plaintiff company to exercise such option.

If a special option were given, and the plaintiff company failed to exercise such option they certainly cannot claim any advantage through their failure to exercise such option. If the special option were given them and they failed to take advantage of it, then they fall back on the original bill of lading. Am I not right in that? Do I make myself clear?

Mr. McNeill.—Of course it rests on that.

His Honour.—If your company gave notice to the plaintiffs that they would give them some special option which was not in the bill of lading, and the plaintiff company failed to take advantage of such option, then they fall back exactly on the original bill of lading, so that, under paragraph 4 I see no necessity of a commission. Paragraph 5:

As to establishing the nature terms and details of the contracts referred to in the answer of the defendant company.

And the said F. S Iliff as to

The negotiations between the said F. S. Iliff and the representative of the plaintiff company at Chefoo for the transfer of the undischarged portion of the Taku cargo from Chefoo to Talienwan, and the negligence of the plaintiff company in taking delivery at Chefoo of the said cargo.

The only part of the contract, as I have said before in this off-hand opinion, that is at all essential to this case is the

bill of lading. Now that bill of lading in writing and accepted by both companies, is certainly binding on them. There certainly was no contract between Mr. Wheelwright and any member of this company effecting that bill of lading; The bill of lading is absolutely clear and detailed in its specification. How then can there be a prior verbal contract having any weight as against the bill of lading? It seems to me, and I will hear you further, when I get through, Mr. McNeill, on this point, it seems to me that the negotiations between Capt. Iliff and Mr. Epperly, and also between the Pacific Export Lumber Co. in Portland, as to the terms under which they would consent to a transfer of this undischarged portion to Talienwan is very thoroughly covered in writing.

Mr. McNeill.—It is the question whether it is.

His Honour.—I will hear you further in regard to Capt. Iliff after I get through as to the negligence of the plaintiff company in taking the said cargo. On that I have not had as yetany suggestion of difference as to the facts.

Mr. McNeill.—As to the facts of slowness.

His Honour.—As to the facts.

Mr. McNeill.—We go a little beyond.

His Honour.—The consideration of these facts as to culpable negligence, it seems to me, is a matter for argument and opinion of the Court.

Mr. McNeill.—We have not got the whole of the facts.

His Honour.—I will hear you on this last.

Mr. McNeill.—On what has fallen from your Honour with regard to the first head of Capt. Iliff's evidence. Of course the negotiations have been covered a great deal by the written documents, but Capt. Iliff, who was the person who was there in Chefoo claiming demurrage face to face with Mr. Epperly, who was the person refusing demurrage, would be able to greatly strengthen our case by stating the way in which the claim was pressed and the way in which it was met by the payment as a final settlement of the matter. We want to make it clear by Capt. Iliff's evidence that this thing was really hammered into the American Trading Co. that they must pay up demurrage or there would be no more cargo.

His Honour,—I think that is clear from the exhibits, and I cannot find any evidence—and I say this now without prejudice to further consideration of the case—I cannot find any evidence up to the present time where the Pacific Export Lumber Co. either by themselves or through Capt. Iliff weakened in their position as to what demurrage should be paid.

Mr. McNeill.—All I say with regard to that first head under Capt. Iliff is that it would strengthen, if it requires strengthening—your Honour apparently does not think so—the position that we take up. As to the second paragraph, the facts are practically admitted. That is to say, the facts of the slowness with which the cargo was delivered. But I think when you say the only thing that is required is what inference is to be drawn from those facts, that that overlooks little facts which are not in evidence which tend to show, that there are things which Capt. Iliff would say, what he saw of the way in which the American Trading Co. acted with regard to hurrying on the discharge of the cargo. I cannot say exactly what he would say, but he could explain little things which, in his opinion, with regard to the action of the American Trading Co. made the delivery slower than it would be even with the primitive appliances existing at Chefoo.

His Honour.—Do you agree, Mr. Nelson?

Mr. Nelson.—I think your Honour has stated, as regards the first paragraph what I meant to say.

His Honour.—Then I understand you that there is no assertion on the part of the plaintiff company that Captain Iliff, or the defendant company, at any time weakened in their demand as to demurrage.

Mr. Nelson.—There is no doubt from the evidence and correspondence. With regard to the second paragraph, not one question was asked of Mr. Wake, and the captain's log shows what was delivered, and really when the answer was drawn some details most have been obtained by the defendant company in order to draw that answer; but the only suggestion that has been made of negligence in this case has been in the answer. That is the only suggestion, and no cross-examination of Mr. Epperly with regard to the amount or whether they did their best or looked after the thing at all. Mr. McNeill, himself, is not sure what the captain would say.

Mr. McNeill.—Not at all; I could not state it, but I know it.

Mr. Nelson.—If Mr. McNeill had proper data to go upon he would have cross-examined the two witnesses.

Mr. McNeill.—Of course Mr. Wardle is in a position to state what the captain told him.

His Honour.—Have you considered the advisability in lieu of this commission to Captain Iliff on that point of negligence of sending the questions to Captain Curtis and such other parties as might have knowledge of this matter?.

Mr. McNeill.—I must say I have not considered it, but I do not think Captain Curtis would help us.

His Honour.—Have you considered whether the burden of proof is on you?

Mr. McNeill.—The burden of proof is not on us. The agents of the company have alleged that they delivered the cargo with due diligence.

His Honour.—I think I have made myself plain as to Mr. Wheelwright, and the reasons set forth here for a commission to examine Mr. Wheelwright do not appeal to my mind, and I will deny that. I see no reason to issue a commission to Captain Iliff on the first paragraph, as that seems to me thoroughly covered in writing, and the admission of the defendants' counsel in open court. That the demand for the payment of demurrage was constantly urged and demanded—I fail to see any contention between the parties on that, and that, as I take it, is the meaning of that first paragraph. Do you intend to put further witnesses on the stand?

Mr. Nelson—I have no further witnesses. Of course, if your Honour were to grant a commission, there might be rebuttal.

His Honour—I see no reason, from my memory of the testimony, to issue a commission on the second paragraph, to Captain Iliff, bearing in mind as to where the burden of proof in regard to that matter must lie.

Mr. McNeill—The allegation in the petition that due diligence was observed; or is the burden of proof on the person who denies?

His Honour—The bill of lading is perfectly plain, it seems to me, and I ought not to have to go into it and speak of it. The consignees must receive cargo at the rate of 250,000 feet a day. If they have not received it the burden of proof is on them to show why they did not.

Mr. McNeill—Of course they have suggested their reason, and we want to give ours. We would like to give the Court all the facts before it forms a judgment.

His Honour—As to when they did begin to receive the amount they did receive there is no dispute. There is an allegation in the answer that they did not begin to receive until the 15th. That is admitted, and, apparently there is no dispute as to why they did not begin to receive. It is then for the Court to pass on as to whether that reason is good.

Mr. McNeill— None, because no orders were given to discharge.

His Honour—It is for the Court to pass on. I shall deny the motion.

Mr. McNeill—I take exception to that ruling and desire the exception to be noted.

His Honour—The exception is noted. Please remember, if I find it necessary after I have seen the transcript of my somewhat off-hand talk, I will write out the decision in this matter, and, of course will communicate it to the two of you. But, broadly speaking, I will deny the motion because the grounds as forth seem to me to have been covered by the testimony up to the present time, or to be immaterial to the case. Please note the concurrence of the Assessors in the denial of the motion.

Mr. McNeill—We come, now to the final stage of this case as it will come before this Court, that is, I desire to cite to you a few, not many, authorities on the points of law which are raised by the facts on the evidence. I think I may say so at once that the case does not looked at broadly, raise very many subtle or very difficult questions of law. There are one or two questions of shipping law which do come up, and upon the application of which the decision of the Court must depend, but, in the main it is a case of disputed facts and their construction rather than the principles of law to be applied. The first point to which I wish to direct the attention of the Court is the duty which is cast upon the master of a ship to convey the goods shipped under the bill of lading to their port of destination as named therein. It seems, stated in my imperfect language, a tolerably simple proposition, when you take goods on board for carriage to a particular place it is your bounden duty to take them there, but as there has been at least something more than a suggestion that it was the duty of the captain to take his ship to some place other than the place named in the bill of lading—in fact that he played the part of a fool or a knave in going to the port of destination—it is necessary I should merely give you a note of reference to the text books which lay down the obligations of the master.

His Honour—Please do not use hard words, because there has been nothing said implying that he was a fool or a knave.

Mr. McNeill—Acted foolishly.

His Honour—No, mistakenly.

Mr. McNeill—I substitute that word—that he acted in a mistaken manner, and with something less than complete propriety. I propose, in giving you references to law to confine myself as far as possible to three well-known books, one the well-known work of "Parsons on Shipping," which is an authority in this Court and elsewhere and the other equally well-known "Abbott on Shipping," which is frequently referred to by Parsons. Where I have to make a very short statement of a simple proposition it will be more convenient to give it from another book, "Carver on Carriage by Sea," which I see is in Mr. Nelson's hand and which, although not a work of authority, is a text book very much in the hands of people who deal with shipping cases, and which is recognised as accurate—not authoritative, but accurate. With regard to the carriage of cargo to the destination, the reference I wish to give you is "Abbott on Shipping," (11th ed., p. 330) from which I will just read the following short passage, (Extract read.) That is to say it is the business of the master carrying goods under a bill of lading, to carry those goods, except in special circumstances which have not arisen in this case, to the port of destination. When I first addressed you I stated that there was no obligation on the part of the master to give notice of the arrival of the ship. But he gave notice, and therefore the point has no particular materiality; that is to say, he endeavoured to give notice to Tientsin; whether such notice had to be given he did, as a matter of fact, give notice to Portland, and Portland gave notice to San Francisco, which was in connection with Shanghai, so that, so far as concerns notice of arrival of the ship at Mororan, notice was given, but I should like to make it plain that there is some authority for saying that there is no obligation to give such notice. I refer you there to "Parsons on Maritime Law." This appears to be the first edition, and the reference is to page 295, a note which says, simply recording the fact of a decision: (Extract read.) I mention that merely for what it is worth in so far as it is necessary, because, it seems to me in this case it is proved such notice as could be given was given, and as I have said before, we did all and a little more than the law required us to do. Having carried the cargo to its destination, the next duty of course of the master is to make delivery of it, and I do not think there can be any dispute as to what the duty of the master in that matter is. I think it is well understood amongst shipping men, and apparently has been well understood in this case, that the duty of the ship is to put the cargo over the side, and the duty of the consignees is take delivery there. As to that I can give you a reference, a short statement from this book of "Carver's Carriage by Sea" which I have already mentioned. (3rd ed,, p. 513). The passage is: (Read.) That is of course under the bill of lading. There remains, as far as I can see, only one other matter of law which has to be touched upon, and that is, of course the substantial question in this case, of demurrage. The contract in this case, as evidenced by the bill of lading, is plain as to the rate at which the cargo is to be cleared, that is to say, as to the date at which but for special circumstances, lay-days would commence and terminate, and the date at which demurrage would begin to run. Now, in this case, as in many other cases, one side alleges that the delay which caused those lay-days to expire was due to circumstances which were beyond their control—that is substantially the position taken by the plaintiffs—one side allege that the delay was, under the circumstances, beyond their control, the other side alleges they did all they were bound to do, and if delay occurred giving rise to demurrage the burden of that must fall on the consignees. I desire, therefore, to cite to you more than one authority which establishes that, both according to the law of the United States and English law the risks which may impede the discharge of the cargo at the rate specified in the bill of lading fall entirely upon the consignees, provided the shipowners or, in this case the charterers of the ship, does his duty and is not in fault. In stating several matters in regard to the fixing of a period for discharge I cite several cases upon them. Carver summarises the rule as to the duty of a ship, or, in this case, of

course, the charterers, with regard to bringing the ship to the place at which lay-days may be supposed to commence. The section appears to be 621A. page 714. (Read.) That being the charterers' duty in this case, of course it is quite clear that owing to the state of things at Taku the ship could not be discharged there, it had to go elsewhere, and, owing to the very imperfect appliances existing at the port where discharge was made, she could not be discharged in the proper time, and the question which arises is, who, under those circumstances is responsible? I say the consignees of the cargo, unless it can be shown there was some fault on the part of the charterers Referring again to Carver merely for the statement on page 690. (Read.) On the same point, Parsons at page 283 observes. (Read.) On the same point Abbott at page 271 (11th edition.) In the same connection there is another matter which I would like to bring to your notice, and that is that according to some authorities the receipt of the cargo under the bill of lading is decisive on the question of liability for demurrage and other claims. In Parsons, at page 219, I find the following: (Read) which at least is based on a fair number of authorities cited in the case, and is, at least, worthy of consideration in this case. The cargo certainly was received, what part of it was on shore, when this claim first arose, and if that principle of law which is there stated is to be applied it would seem that the acceptance of the cargo as it was received was conclusive as to the liability for demurrage. These are, I think, all the points which I should bring to your notice. The important one, of course, is the last, and I have tried not to labour it because I do not think there is really any substantial doubt as to the principles that I have stated, but, of course it is as to whether upon broad consideration of the facts as proved these principles become applicable or others. I say, upon the facts as proved, there has been no fault on the part of the charterers of this ship which conduced in any way to the delay in taking delivery of the cargo, thta the delay was occasioned not very indirectly by the troubled state of things at the port of Taku; that the demurrage which occurred in consequence of that delay in taking delivery falls, as it must fall upon somebody, upon the consignees of the cargo.

His Honour—You can assist the Court, Mr. McNeill, by making me a memorandum covering these points of law as you have brought them out, the authorities you have cited, and the books to which you referred. You will do that by simply giving the head of these different points, and pages, and so on. That will be for the convenience of the Court.

Mr. Nelson—With regard to Mr. McNeill's first contention as to the port of distination, and as to the onus on the master of carrying the goods to the port of destination, I entirely agree. It is a very well-known dictum by judges which has been laid down many times, and it is well-known in shipping law The question in this case will arise, and I think practically the only question that will arise, is, Are the conditions at Taku to be read as the same as the conditions at Chefoo; and was there anything done by the parties to change those conditions? Firstly, before we start, I think that your Honour will agree with me that all suggestions that have been made in the answer or in any testimony that has been given with regard to any alteration of the bill of lading or anything to be incorporated in the bill of lading must come out entirely, and that bill of lading must be looked to by itself and all acts that have taken place in connection with that bill of lading or something subsequently done by the parties. With regard to that point, what would the American Trading Co. gain by incorporating a lot of other agreements in the matter? All they do, they go to the Pacific Export Lumber Co. and they say "We will buy from you so much," or they do it through one of their houses. The Pacific Export Lumber Co. do, I presume, in matters of their business transactions, charter a ship, but the American Trading Co. are only in just the same position as ordinary merchants, who send home for a lot of things, and who know nothing about a charter or any other agreement. Therefore I think the bill of lading is what we will have to go upon. First, I would like to touch the notice of sailing. With regard to the notice of sailing and of the different ports at which the Elm Branch was to touch, and granting for a minute that notice was given,—we will say that notice was given and that it was in the knowledge of the plaintiffs where this ship was going to touch—it was not the province or the power of the plaintiffs to divert the course of that ship. The only possible way, having regard to these disturbances which were well-known to the whole world, would have been by a mutual agreement which would have had to be made by not only the American Trading Co. and the Pacific Export Lumber Co. but by the owners of the Elm Branch. Consequently, the plaintiffs could not have diverted that ship from her voyage; they could not have stopped her at Mororan, without the consent of the defendants, or at their suggestion, because the defendants would have to make their own arrangements. We will say the captain did perfectly right, and he must have done right, in going to Taku, or near Taku. Mr. McNeill says the captain has a right in law to go to his port of destination and drop his anchor down there and stay until somebody comes to find out whether there is a load of lumber knocking about. He goes on to say that no notice need be given. I am at issue with him there. The first ground is that it is laid down in English law, also by the law of charter party, that no notice is required, though it follows on in a subsequent article, unless it is customary at the port. Now then to take English law first. I should say myself that the ordinary knowledge of anybody who knows anything about Taku—a great number of us during last year or so have learned a great deal of the geography of Taku—that Tientsin being a reputed port fifty-two miles away from Taku, and the nearest that a ship drawing what the Elm Branch does would be about nine miles from Taku, that it would be the duty of the captain and it would be the custom of the port, to give some notice that could be sent to Tientsin. We will take it no notice is required in English law but I am now referring to a book, "Desty's Shipping and Admiralty," a book, I believe, very well known in American and which seems to me a very concise little book. It says in section 239, page 2?3 (Read.) It seems to me that is very very distinct indeed with regard to notice. What did the captain do? He went to Taku; we have not had quite as to exactly the place he went to, but subject to your correction, and if you think I ought not to say it I withdraw it, I say it was a well-known fact at this time there was perhaps the biggest foreign fleet in those waters that has ever assembled there, and the admiral was a very long way outside, probably fifteen miles. The master appears to have seen the admiral, and the admiral by the letter which has been put in, which was sent to him, appears to advise him, I say only advise him, that it would be extremely dangerous to discharge his cargo at Taku. If this man is to go on his legal rights—and I do say this also with regard to the remarks you made upon the motion that he never gave in for one moment what he considered his legal rights he ought to have endeavoured to get to Taku and see whether he could discharge the cargo, at any rate, he ought to have made some attempt to communicate with Tientsin in order to get some instructions from there. Upon this date Tientsin, and the road to Tientsin was in the occupation of the international forces, and it would have been quite easy for him to communicate with Tientsin. What did he do? He thought, "I will go away.

What is the best place to go to? I will go to Chefoo." That is the nearest port, as a matter of geography by a few miles. He went and he interviewed Fergusson and Co., the correspondents, as Mr. Wake told you, of the American Trading & Co., what, I believe is, in ordinary parlance the "good friends," and the firm telegraphed down to Shanghai. Shanghai knew nothing about it. They wired up to find out what the cargo was. The telegram was that the master strongly advised that the cargo should be discharged at Chefoo. They wired back "Very well discharge the cargo at Chefoo." My contention now is this, and I think this is the broad contention in the whole case, that the master by not taking his ship to her actual destination, by not communicating with Tientsin, by removing his ship to Chefoo, caused a totally different aspect to come over the proceedings, and an entirely new arrangement to obtain; and I say that by removing his ship he undertook the conditions of Chefoo, and he knew, as has been given in evidence, that he could not discharge at Chefoo at the rate of 250,0 0 feet per day. I will cite an authority which may perhaps run through your mind, also from this little book. It is Desty, section 247. (Read.) I think you will see the analogy of that quotation from that book with regard to what I have been saying. The contention clearly is this, that a new contract was entered into, or new conditions, I do not say actual contract in so many words, but by the master not adhering to his legal rights, as Mr. McNeill describes them, of stopping at Taku, the master undertook the conditions at Chefoo, and a new position of affairs arose. With regard to the points which Mr. McNeill has mentioned with regard to the points of law, your Honour said yesterday with regard to the demurrage that there was no doubt that the ship had a lien on the goods for demurrage. It rather puzzled me at the time, and it shows the care which must be taken between English and American law. There is a lien in American law but no lien in British law. It most certainly is distinct on that question, and, therefore, I ask your Honour to look with very great care at anything which has been quoted with regard to English law.

His Honour—I will be glad to hear you on American law, as far as I am concerned.

Mr. Nelson—I am sorry to say I do not know enough. Now he was wrong in this matter. Mr. McNeill has asked in his previous speech what did the captain do wrong. The first thing I say is that he removed his ship from Taku. In the second place, I say he refused delivery of the goods when the goods were being discharged in a proper manner at Chefoo, and in what I am going to call a reasonable manner. If I am right in saying that the conditions of Chefoo must be the conditions under which this delivery was to be taken, then I do not think anybody will say, having heard the evidence given, that I am wrong in alleging that the mode of delivery would be—no lumber ship known to have discharged there before—in as reasonable and as proper a manner as possible. I know in the petition it is alleged that the cargo was discharged with all diligence, the usual allegation. Certain rather sweeping allegations were made in the amended answer, but I fail to see anything, I have been waiting for it for a long time, of any suggestion, and Mr. Wake came here—at first I did not intend to call him, in fact I never thought of calling him, because I thought I would have been able to have the original telegrams—and no questions were asked of the three witnesses except as to about how much was discharged; and, taking the figures I find in one day, taking an average, the largest amount would be about 130 (00 feet. What about the negligence of the plaintiffs? They did what any reasonable merchant would do. They engaged what I believe—I am open to correction—is the only competent company or corporation at Chefoo to take delivery of this cargo. As the company it is admitted is under the control of a foreigner, there is little reason to doubt but what they would use their best endaevours to take delivery in a reasonable manner, especially as that company was engaged by the ship to discharge, and, if the captain thought that they were not doing their duty properly he could complain to his servants, as they practically were then. As I say the captain was wrong, if my contention is correct, in refusing to go on delivering the goods, because his lay-days had not run out, even if he were entitled to demurrage, by removing himself from the port of Taku. Now, with regard to the lay-days. Where do lay-days start if they are not mentioned in the bill of lading? I will refer to an American case. It is the matter of Fleet and Co., against the United States for demurrage in delay in receiving coal at Honolulu (Treasury Controller's Decisions, Vol. VI.) In the case of the ship St. Francis, the Controller in his opinion remarks (Read.) Of course the customs of Taku perhaps will not arise here, and the custom of Chefoo will be, of course, as soon as they are ready to discharge. With regard to Mr. McNeill's books, Carver says distinctly (3rd Ed., p. 721) (Read.) What I was going to say with regard to the lay-days is that they do commence, when they are not fixed in the bill of lading, when the ship is able to get to her proper berth. So I say that the lay-days, as claimed by the captain to have started from Taku, must be absolutely incorrect, as he did not get to his proper berth, and he was not prepared to discharge. I am quoting from the "American and English Encyclopædia of Law," vol. IX) (Read.) That is my contention that she did not get to Taku, and that the lay-days could not start at the time the captain said. With regard to the protest. Mr. McNeill made a very ingenious defence of the amended answer with regard to the withdrawal of the protest I think that the Court will agree with me that Mr. Epperly acted as a very reasonable business man in saying that he would pay the demurrage, at first offering to give a bond and let the matter be settled out of Court afterwards—I think he acted as a very reasonable man in at first offering that bond and then, when the captain did not accept it, in saying that he would pay the demurrage under protest and I do not see that any argument can arise to show that he did not act properly, and that he was not right in paying that money under protest. What in the name of goodness would have happened if the demurrage had not been paid I do not know. What the captain would have done I do not know. Would the captain have gone to Talienwan to discharge his other cargo? That I do not know. It looks as if the two were staring each other in the face and Mr. Epperly did what I think any reasonable man would do, pay the demurrage under protest. And the captain accepted it under protest. The captain received from Mr. Fowler, the American Consul in Chefoo, a draft on Fergusson & Co., the agents for the Hongkong & Shanghai Bank, for £929, 5s. with a covering letter stating that that was only paid, not actually with the words "under protest" but subject to the rights of the American Trading Co. to have that matter ventilated. These are not the words, but the document speaks for itself. That, I think, was a reasonable thing to do, but, prior to that Mr. Epperly had tried to stop the deadlock and get matters to run freely. What did he do? He said, "To discharge here is very slow indeed; can you quote me a price for reshipping the other timber and taking it to Talienwan where it will probably be of more use." What happens? The captain wires to Portland, and, I think I am right in saying that Mr. Epperly asks Shanghai to wire to Portland for a price. What comes back? Something with regard to the other cargo that is on board, and I will ask your Honour to look very carefully into the reply and see that the people at home were a little uncertain of their

grou d. They are a bit uncertain as to whether they have not been claiming the wrong demurrage. I think it will be a matter for your consideration. Mr. Epperly said in his evidence when asked why he did not go on those conditions, he said it was not what he wanted, so the demurrage was paid after this telegram and the ship proceeded to Talienwan. When she gets to Talienwan and furth r on is not of much interest, but one remark made by Mr. McNeill yesterday is, I think, of great interest as bearing on the whole case, and that is this. Mr. McNeill suggested that the fact of this cargo being taken to Talienwan—the delivered cargo—made a new contract; that it was a contract for delivery at Talienwan. Now, if Mr McNeill's client was right in saying he had the right of going to Chefoo and delivering there, I must say I can ot see why he is endeavouring to set up another contract. I say the contract was at Chefoo. That the old contract for delivery went by the board and that the conditions of Chefoo had to obtain. Mr. McNeill talks about another contract. Which contract he intends to adhere to, I really do not know. I will say this. I think the captain acted in perfectly good faith, and, of course, in the interests of the owners of the ship all the time. It was his duty under his charter. But I do say this, that I think that he might have gone to Talienwan. That is only a matter for comment. With regard to the whole case, your Honour sees, I am sure my point, and I say this, that a great number of things have been set up on the other side in the answer, a great many suggestions and allegations, which I do not think, if Mr. McNeill may think that he was hardly treated in not having his commission, I do not think, personally speaking, affect the case. The whole case, I think is, Are the conditions of the contract to be accepted, that is the conditions at Taku, or when the ship is removed to Chefoo are the conditions of Chefoo to be accepted? The documents, speak very clearly for themselves, and luckly the other side have been able to bring a very large number of them In conclusion, I shall ask you to look at the data in Mr. Desty's book on shipping because I think it is a very concise little book, and to consider the two points in that, as I am sure you will, and also with regard to the lay-days. I have now to say that I ask your Honour for judgment for the amount claimed, together with costs. I have to thank your Honour for the courtesy and assistance you have given us, and in allowing us to put in a lot of documents that otherwise would not have been allowed to be put in, and so saving considerable time.

The Court will reserve its decision.

The Court then rose.

JUDGMENT.

Shanghai, 28th May, 1901.

His Honour delivered judgment as follows:—

In the early part of 1900 the Pacific Export Lumber Company, a corporation with its main office at Portland, Oregon, sold and agreed to deliver to the American Trading Company at Taku, China, about 2,300,000 feet of lumber; delivery to be made between June 1st and September 1st in that year. On June 12th this lumber, to the amount of 2,328,195 feet, was shipped by the British steamer Elm Branch from Portland. The steamer made one stop, at Mororan, Japan, about July 1st, and arrived at the bar outside the mouth of the Peiho River at 9 a.m. on July 8th. The British Admiral and the Port Authorities informed Captain Iliff, of the Elm Branch, that, on account of the disturbed and uncertain condition of affairs in the region about Taku, all the lighters were in use by the Allied Fleets, and that coolies could not be obtained to unload merchant vessels. The steamer, without breaking cargo, therefore went to the nearest port, namely, Chefoo, arriving there on the afternoon of July 9th. Captain Iliff, on that same day, gave written notice of the arrival of the ship and cargo to Fergusson and Co., who are described as correspondents of the American Trading Company at Chefoo. In this letter Captain Iliff also claimed that lay days for the vessel should begin from her arrival at Taku. He further called attention to the fact that the bill of lading required the consignees of the cargo to receive at least 250,000 feet of the lumber per day. On that day Fergusson and Co. wired the American Trading Company at Shanghai of the arrival of the ship and asked instructions. On July 12th Captain Iliff wrote to Fergusson and Co., as agents of the American Trading Company, claiming that lay days must be counted as beginning from noon of July 9th. On July 14th, after other telegraphic correspondence between the two firms, Fergusson and Co. were instructed by the Shanghai office of the American Trading Company to unload the ship at Chefoo. On July 20th, Mr. J. C. Epperly arrived at Chefoo as the direct representative of the American Trading Company. On July 23rd, after, as Mr. Epperly testifies, several conversations between Captain Iliff and Mr. Epperly on the subject, Captain Iliff wrote to Fergusson and Co., notifying them that lay days had expired on July 18th. On July 26th Captain Iliff wrote to Mr. Epperly, notifying him that lay days had expired on July 18th; that no demurrage had been paid; that the receipt of lumber had been exceedingly slow; and demanding immediate payment of the demurrage which, he claimed, had then accrued. On July 28th, Captain Iliff notified by letter Mr. Epperly that no more cargo would be delivered until arrears of demurrage should be paid; and further demanded a bank guarantee of balance of freight due and demurrage which might thereafter accrue. No cargo was thereafter landed at Chefoo. Mr. Epperly on July 30th wrote to Captain Iliff, denying the right of the ship to hold the balance of the cargo for freight and for demurrage, but offered to deposit sufficient guarantee with the U. S. Consul at Chefoo pending adjudication of differences. Mr. Epperly testified that Captain Iliff told him constantly that he (Captain Iliff) was acting under direct instructions from the Portland office of the defendant Company, and telegrams of July 18th, 21st, 25th and 30th are filed here from the defendant Company to Captain Iliff, consistently making demand that lay days must begin from the arrival of the ship at Taku; that the plaintiff Company must pay demurrage on that basis; refusing to arbitrate differences; and instructing Captain Iliff that the balance of freight and demurrage must be paid before all the lumber passed out of his direct possession. There is no claim that this position or claim was ever varied. On August 2nd, Mr. Epperly wired the American Trading Company at Shanghai: "Enquire Wheelwright what are the best terms reshipment discharged cargo (to) Talienwan (by) Elm Branch." This telegram was repeated to the Pacific Export Lumber Company at Portland. On August 3rd the latter wired to the plaintiff Company at Shanghai: "I have telegraphed to Captain you can have the option of the portion not yet discharged same conditions

as before if you have accepted conditions cabled him, lay days to commence from time of arrival at Taku, demurrage and all extra expenses to be paid by you." This was repeated verbatim to Mr. Epperly on August 4th. The Pacific Export Lumber Company wired Captain Iliff that they had given the option of Talienwan as per above telegram. Mr. Epperly testifies that he acted further on his own motion, without other instructions, and after the receipt of this next above-mentioned telegram. On August 6th Mr. Epperly, through the U. S. Consul at Chefoo, paid to Captain Iliff £929 5s. 0d., being the amount claimed for demurrage, and saying further that he paid this amount "under protest and without prejudice whatever to our rights of final settlement of the question of demurrage." For this payment Captain Iliff receipted in ordinary form. On the evening of August 6th, the Hongkong and Shanghai Bank agents in Chefoo, under Mr. Epperly's instructions, guaranteed "all demurrage earned or alleged to be earned upon cargo destined for Taku, as well as freight unpaid; the above paid without prejudice." On August 7th at 5.30 a.m., the Elm Branch proceeded to Talienwan. Mr. Epperly testified "I told him (Captain Iliff) to take the balance of the cargo to Talienwan to discharge it. I gave him such instructions at Chefoo and in writing at Port Arthur." No testimony is given of any other inquiry from either Captain Iliff or the defendant Company for terms for carrying the undischarged portion of the Taku cargo to Talienwan, except as by the telegrams above quoted; nor is any special bargain alleged by the plaintiff Company or Mr. Epperly. The vessel anchored at Talienwan at 9.20 a.m. on August 7th, commenced discharging cargo at noon on August 8th, and finished discharging all the cargo at 4.30 p.m. on August 14th. Thereupon, Mr. Wardle, Vice-President of the defendant Company, proceeded to Chefoo and collected the balance of freight and demurrage claimed; the total payment for demurrage aggregating £1,393 8s. 6d. (the plaintiffs' petition says £1,316 8s. 9d.), being for 27 days at £51 12 6 per diem, the penalty specified in the bill of lading. After prolonged negotiations looking toward a peaceable settlement of the matters in dispute in this transaction this suit was brought by the American Trading Company against the Pacific Export Lumber Company for the return of the above amount of demurrage as wrongly paid.

After carefully considering the evidence offered, and having heard the arguments on the issues Counsel consider to be involved in this case, it does not seem to the Court necessary or incumbent upon us in this decision to discuss or pass upon several of the points raised. We need not pass on the duty of either party to divert the ship at Mororan to another destination on account of the conditions well known to all the world to be then prevailing at Taku; nor on whether the Elm Branch so arrived at her destination at Taku that her lay days would legally begin there; nor on whether the different conditions at Chefoo modified the obligation in the bill of lading that the consignees should take and receive at least 250,000 feet per day; nor on whether the ship properly exercised her undoubted right of lien on the whole or part of the cargo for freight and lawful demurrage. The essential question in this action is, "Was there a new contract entered into at Chefoo between the parties to this action for the carriage to Talienwan of the undischarged remainder (about 1,000,000 feet) of the cargo originally destined for Taku?" The telegrams and actions of the parties must answer that question. The facts are undisputed that Captain Iliff, under instructions from the defendant Company, from his arrival at Chefoo demanded that lay days must be counted from the arrival at Taku, and stood upon the obligation in the original bill of lading, that the consignees must receive at least 250,000 feet of lumber per day. At Chefoo, only about 100,000 was unloaded daily. After Captain Iliff refused to deliver the then undischarged remainder of the Taku cago, until or unless freight and demurrage were paid, or a bank guarantee given to pay according to his repeated demands, Mr. Epperly and the plaintiff Company asked the defendant Company for a price for reshipment of the discharged cargo to Talienwan. To this the defendant Company made no reply, but offered to allow the American Trading Company to send the undischarged remainder of the Taku cargo to Talienwan without extra freight, provided that the American Trading Company had accepted the conditions previously telegraphed to Captain Iliff, i.e., lay days to begin from time of arrival of the ship at Taku, and demurrage and all other expenses to be paid by the American Trading Company.

This offer was repeated from the Shanghai office of the plaintiff Company to Mr. Epperly, their agent in Chefoo, without instructions, leaving it to his discretion to accept or reject this offer. Undoubtedly, this was such an offer as, if accepted, would bind the defendant Company to carry the balance of the Taku cargo to Talienwan. The American Trading Company was not coerced by stress of circumstances. It had the option either to accept this offer, and thus enter into a new contract of carriage from Chefoo to Talienwan, or to reject it and order the unloading to continue at Chefoo. In the latter case, the demurrage demanded could have been paid under protest; the unloading must have proceeded, and the Court could then have passed on the merits of all points in the matter. Mr. Epperly, without further instructions or further offer, correspondence, or verbal bargaining between the parties, on the next day after receipt by him of the defendant Company's offer, paid the demurrage as demanded to that date, gave a guarantee for the balance of the freight and for any demurrage thereafter accruing under Captain Iliff's method of computation, and ordered the ship to Talienwan, there to discharge the balance of the Taku cargo. These acts were certainly a compliance in fact with the defendant Company's conditions, precedent to and in payment for the advantage to the plaintiff Company that this lumber should be conveyed to Talienwan. In other words, the defendant Company offered to carry 1,000,000 feet of lumber from Chefoo to Talienwan if the plaintiff Company would pay an amount in dispute. The plaintiff Company paid this amoun and the defendant Company performed its obligation in return. In paying this demurrage in dispute, Mr. Epperly wrote that the amount was paid under protest and without prejudice to a final adjudication of the dispute. After that, however, he ordered the ship to proceed to Talienwan, that which the defendant Company had agreed to do provided these payments were made; and accepted for his principals the advantage of the defendant Company's offer. Under these circumstances it must be held that the protest was ineffectual. The plaintiff Company could not take advantage of the defendant

Company's offer without paying the price named in the offer. An offer had been made by the defendant Company; its conditions were complied with by the plaintiff Company, who then ordered the obligations of the offer to be carried out. The protest can only be considered as an expression of discontent.

We must decide that a new contract was entered into by the two parties to this suit by their respective agents at Chefoo, on August 6th, based on the offer of the defendant Company to carry the undischarged Taku cargo to Talienwan, provided that the plaintiff Company would pay demurrage as demanded, counting lay days from the arrival of the ship at Taku, and on the acceptance of this offer by the plaintiff Company, when it paid the amount demanded, ordered the ship to Talienwan according to the offer, and received and unloaded the cargo there.

The return of the amount paid under this new contract cannot be demanded. We, therefore, find for the defendant Company, with all Court costs of this action.

JOHN GOODNOW,
Consul-General, U. S. A.
(Acting Judicially).

We concur in the above decision.

C. E. FISKE, } Assessors.
W. W. RICH, }

No. 11

Shanghai

Consulate-General of the United States,

June 3/01.

U.S. CONSULATE GENERAL
JUN - 3 1901
SHANGHAI, CHINA.

CONSULAR BUREAU.
NOTED AND PUBLISHED.
1901

Mr. Gardner.

To the Department of State,

Acknowledged & Interest July 11, 1901

Subject: Death of C. A. Sulter

Ask & note
Call attention to
discrepancy between
dates in this
& in No. 407.
Ltr. to Bur. & Revision

Abstract of Contents.

Report enclosed

[See his No. 407, of Sept. 13, 1901.]

Consular Bureau.
JUL 10 1901

No. 4

Consulate-General of the United States,

Shanghai, June 3rd 1901 , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith report of the death of Charles P. Luther.

I would call your especial attention to the fact that he was a pensioner of the United States. He left neither wife nor children.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General

(Sic Sutton)

(Form No. 192.)

Report of the Death of an American Citizen

CONSULAR BUREAU.
NOTED AND PUBLISHED.

Consular Service, U. S. A.

Shanghai May 29 1901

Name: Charles F Luther

Native or naturalized: natin

Date of death: March 9 1901

Place of death: Shanghai China

Cause of death: cerebral hemorrhage

Disposition of remains: interred in Bubbling Road Cemetery

Local law as to disinterring remains in case it is desired to bring them home:

can be done

Disposition of effects: devised by will

Address of family: Known here: Sister Miss E Bloxom Fairhaven Mass.

Family notified: Yes { niece Agnes J Luther Oakland Cal. brother E J Luther Auburn R.I.

Accompanied by relatives:

This information, inventory, accounts, etc., recorded in ~~Miscellaneous~~ Dispatch Record Book, page 82

Remarks: Held Pension Cert. $18 90 dated Dec 16 1892

John Goodnow

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., 190....

INDEX BUREAU
REC'D.
JUL 13 1901
DEPT. OF STATE

No. 38

Consulate-General of the United States,

Shanghai, June 13th, 1901, 190.

Mr. Goodnow,

To the Department of State

Subject:

Consul at Newchwang.

Consular Bureau
JUL 18 1901

Abstract of Contents

Mr. Miller left for Newchwang June 13th.

No. 388

Consulate-General of the United States,

Shanghai, June 13th, 1901 . 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that Hon. H. B. Miller, appointed U. S. Consul at Newchwang, left here for that Port to-day.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

INFO'N BUREAU
RECD
JUL 13 '01
DEPT OF STATE

No. 389

Consulate-General of the United States,

Shanghai, June 13th, 1901

Mr. Goodnow,

To the Department of State

ASST JUL 20 1901

Ack. receipt of No. 88 June 11 transmitting Toulmin's pardon

Consular Bureau
JUL 18 1901

Subject:

Richard Toulmin.

Abstract of Contents

Operation on him for abscess of the Liver.
Condition serious. Now in hospital.

278 Jc 11 1901

Jc 11 1901

F 26 1901

No. 389

Consulate-General of the United States,

Shanghai, June 13th, 1901 , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that Richard Toulmin, under life sentence of imprisonment in this jail, was sent to the Shanghai General Hospital on June 11th and was that day operated on for abscess of the liver and about fifty ounces of purulent matter taken from him. The physician in charge fears further complication and the patient is at present in a serious condition.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 390

Consulate-General of the United States,

Shanghai, June 17th, 1901 . 190

INDEX BUREAU RECD. JUL 22 '01 DEPT. OF STATE

Mr. Goodnow.

To the Department of State

ANS'D JUL 30 1901

Letter forwarded.

Subject:

Importation of Arms.

Abstract of Contents

Letter to W. P. Wilson.

Consular Bureau. JUL 29 1901

No. 390

Consulate-General of the United States,

Shanghai, June 14th, 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith letter to W. P. Wilson, Esq. re Importation Arms into China; which I would ask you to forward if proper.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

(1 enc.)

Consular Service U.S.A.

U.S. Consulate General

Shanghai, China, June 19, 1901.

W.P. Wilson, Esq.,

Director Phil. Com. Museum,

Philadelphia, Pa.

Dear Sir ,

I have received your letter of May 16th in which you ask me to give you the names of one or two well established firms who can negotiate with the Chinese Government on contracts for supplies of heavy war material, such as ordnance, etc.

As you know, the importation of war material has been prohibited for a long time by the Chinese Government except on special permits signed by a representative of the Chinese Government and the Consul of the Nationality of the seller. In July 1900 the Consuls-General of all Nationalities represented in China agreed not to allow any importations of war material. That agreement has been kept until the present time. Several Governments have passed laws to that same effect; and no Government to my knowledge have instructed its representative here to declare an agreement at an end.

The reason for this agreement is apparent and must appeal strongly to all foreigners.

Under these circumstances I can not comply with your request.

I am, etc.,

John Goodnow,

Consul-General.

Consular Service U.S.A.

U.S. Consulate General

Shanghai, China, June 19, 1901.

W.P. Wilson, Esq.,

Director Phil. Com. Museum,

Philadelphia, Pa.

Dear Sir,

I have received your letter of May 18th in which you ask me to give you the names of one or two well established firms who can negotiate with the Chinese Government on contracts for supplies of heavy war material, such as ordnance, etc.

As you know, the importation of war material has been prohibited for a long time by the Chinese Government except on special permits signed by a representative of the Chinese Government and the Consul of the Nationality of the seller. In July 1900 the Consuls-General of all Nationalities represented in China agreed not to allow any importations of war material. That agreement has been kept until the present time. Several Governments have passed laws to that same effect; and no Government to my knowledge have instructed its representative here to declare an agreement at an end.

The reason for this agreement is apparent and must appeal strongly to all foreigners.

Under these circumstances I can not comply with your request.

I am, etc.,

John Goodnow,

Consul-General.

No. 391

Consulate-General of the United States,

Shanghai, June 21st, 1901.

INDEX BUREAU
REC'D
JUL 22 '01
DEPT OF STATE

Mr. Goodnow.

To the Department of State

Subject:

Soldiers in Shanghai.

Asst JUL 29 1901 Secy.
To War.

Abstract of Contents

Decision of Arbitrators in the matter of the death of a French soldier.
Asking Department of State to do what it can toward the simultaneous removal of troops.

Consular Bureau.
JUL 27 1901

Second Assistant Secretary's Room.

MEMORANDUM. July 27. 1901

u. Chilton

To war Dept. for informa-
tion.

[I think we have not any
"merican "troops" in Shanghai,
2. if so, that it supplied
Low "pond"
to G.

No. 391

Consulate-General of the United States,

Shanghai, June 21st, 190 1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that on April 7th a French soldier was killed during a fracas in the American settlement and the accusation was made that his death was caused by a policeman kicking him when he was lying on the ground. The French authorities and the Municipal Council could not arrive at any settlement of the matter and agreed on the Consuls-General of Germany, England, and the United States as arbitrators. We sat in the matter for seven afternoons and yesterday rendered a decision that the Police were not to blame for the death of the soldier.

In this connection I desire to call your attention to the great increase in the dif ficulty in maintaining order in Shanghai owing to the presence of the large number of troops of different Nationalities. There does not seem any present need for a garrison in Shanghai and I would respectfully suggest that you use your good offices toward a simultaneous removal of the troops.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 392

Consulate-General of the United States,

Shanghai, June, 22nd, 1901.

MISC. BUREAU
RECD.
JUL 22 '01
DEPT. OF STATE

Mr. Goodnow,

To the Department of State

Subject:

American Warehouse.

Ans'd JUL 31 1901
Letter forwarded

Abstract of Contents

Letter to L. L. Fleming.

Consular Bureau
JUL 30 1901

No. 392

Consulate-General of the United States,

Shanghai, June 22nd, 190 1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herwith letter to L. L. Fleming, Esq. American Cotton Co., which I would ask you to forward if proper.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

(1 enc.)

Consular Service, U.S.A.

U.S. Consulate-General,

Shanghai, China, June 22, 1901.

L.L. Fleming, Esq.,

Mgr. Sales Dep't. AM. Cotton Co.

27 William St. N.Y. City.

Sir,

I have received your letter of May 18th. making inquiries about Boeck Bros. and particularly about a shipment from you to them of fifty bales of cotton to be used as exhibition material and to be sold to such Mills as desired to experiment with it, and for which you have not received payment.

Mr. Victor L. Boeck left Shanghai some time ago and is, I understand, somewhere in the United States. Mr. J. Edward Boeck is in Shanghai. Their business and the business of the American Warehouse is now in the hands of Rudolph Dolge, Esq., who came here from Caracas, Venezuela, to take possession for the National Association of Manufactures. Mr. Dolge says to me that the shipment of cotton in question was sold in Japan and did not come to Shanghai at all; and that he has forwarded your letters and cables to Philadelphia office of the Manufactures Association for such action as they deem best.

If Boeck Bros. are solely responsible in the matter, your loss will be total, as I am informed by Mr. Dolge that their liabilities are about $50,000 U.S. Gold and their assets consist of claims which I consider worth nothing.

I would suggest that Mr. Victor L. Boeck's past business record here was well known and that an inquiry of any of the business houses here or at this Consulate would have prevented this shipment; or his employment as Mgr. of the Warehouse.

I am, etc.,

John Goodnow,

Consul-General.

Consular Service, U.S.A.

U.S. Consulate-General,

Shanghai, China, June 28, 1901.

L.L. Fleming, Esq.,

Mgr. Sales Dep't. Am. Cotton Co.

27 William St. N.Y. City.

Sir,

I have received your letter of May 18th. making inquiries about Boeck Bros. and particularly about a shipment from you to them of fifty bales of cotton to be used as exhibition material and to be sold to such Mills as desired to experiment with it, and for which you have not received payment.

Mr. Victor L. Boeck left Shanghai some time ago and is, I understand, somewhere in the United States. Mr. L. Edward Boeck is in Shanghai. Their business and the business of the American Warehouse is now in the hands of Rudolph Dolge, Esq., who came here from Caracas, Venezuela, to take possession for the National Association of Manufactures. Mr. Dolge says to me that the shipment of cotton in question was sold in Japan and did not come to Shanghai at all; and that he has forwarded your letters and cables to Philadelphia office of the Manufactures Association for such action as they deem best.

If Boeck Bros. are solely responsible in the matter, your loss will be total, as I am informed by Mr. Dolge that their liabilities are about $80,000 U.S. Gold and their assets consist of claims which I consider worth nothing.

I would suggest that Mr. Victor L. Boeck's past business record here was well known and that an inquiry of any of the business houses here or at this Consulate would have prevented this shipment; or his employment as Mgr. of the Warehouse.

I am, etc.,

John Goodnow,

Consul-General.

"Shanghai"

No. 393

Consulate-General of the United States

INDEX BUREAU RECD AUG 1 1901 DEPT OF STATE

U.S. CONSULATE GENERAL JUN 26 1901 SHANGHAI, CHINA.

, 190 .

Mr. Goodnow

To the Department of State

AUG 8 1901

Subject:

Decision of Arbitrators in "Dalle" case

Abstract of Contents

Enclosing decision.
Germans have rented quarters for 2 years.
Danger of troops in Shanghai.

3 1 3

[illegible]

No. 393.

Consulate-General of the United States,

Shanghai, June 28 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir: I hand you herewith in duplicate the decision of the
2/ German, English, and U.S. Consuls General in the matter of the death of the French soldier Dalle.

In doing this I desire to call your attention again to my #391.

The German general staff have yesterday rented quarters here for two years. The French troops have a camp which is undoubtedly fitted up with a view to permanent occupation. The British troops are poorly quartered and have made no apparent provision for permanent occupation.

In the case in question, and which the arbitration has taken place, the military authorities held that the Municipal police have no power to arrest or interfere with the soldiers on leave ; but must call for a military guard to arrest disorderly soldiers. We hold in this arbitration that the military guard can arrest and take charge of their own men but that the duty of maintaining order rests on the Municipal police. I hope for your approval in this matter.

The presence of the military is not now necessary here and may lead to serious complications.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Enclosed in # 393 Shanghai June 28 1901

THE "Echo de Chine" printed in yesterday's issue the following official finding of Mr. Goodnow, Dr. Knappe, and Mr. Brenan in the Dalle case:—

Acting as Arbitrators at the request of our Colleague, the Consul-General of France at Shanghai, and of the Chairman of the Municipal Council of the Foreign Settlement north of the Yang King-pang, and after careful consideration of all the testimony offered us; we find:

1—that the French bugler Dalle came to his death from a collision with a rickshaw on the Chapoo Road on April 7th 1901.

2—that the French soldiers, (Dalle and others) arrested at that time and taken to the Hongkew Police Station, should have been delivered to the French sergeants on their demand.

Also, that the French soldier Cronier was treated with unnecessary violence at the Hongkew Police Station; and especially when handcuffed to the bar.

3—that, as the officer in charge at the Hongkew Police Station telephoned to the military Provost station at once on receipt of notice of the trouble in Boone Road, the Police were in this case justified in using all efforts to maintain order, pending the arrival of the military guard.

Signed June 20th 1901.

No. 394

CONSULAR BUREAU.
NOTED.

Consulate-General of the United States,

Shanghai July 2 , 1901.

CONSULAR BUREAU
RECD.
AUG 10 '01
DEPT. OF STATE

Mr. Goodnow.

To the Department of State

Subject:

R. Loulmin, prisoner.

Note
Copy to Atty. Gen. (All communication
write his recent pardon)
To Attorney General
Aug. 20, 1901

Abstract of Contents

Died July 1st 1901
Abscesses of liver caused death
Buried. B.W.Rd Cemetery July 2d
No relatives
No property.

Consular Bureau
AUG 14 1901

No. 394

Consulate-General of the United States,

Shanghai, July 2nd, , 1901

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my No. 389 of June 13th, I have to report the death of Richard Toulmin in the Shanghai General Hospital on July first. He will be buried to-day in the Bubbling Well cemetery. He had had abscesses of both lobes of the liver; a small one on the left lobe burst upward through the left lung; the abscess of the right lobe was operated upon June 11th and a large quantity of purulent matter taken therefrom, but it was impossible to drain it adequately and the burrowing continued until death ensued.

Toulmin left no property. I do not know that he has any relatives. He has constantly claimed to me that his father and mother died in his infancy and that he has no living relatives.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 22

INDEX BUREAU
REC'D
AUG 10 '01
DEPT OF STATE

Consulate-General of the United States.

Shanghai July 6, 1901.

Mr. Goodnow

To the Department of State

Subject:
Marshal & Interpreter.

Ans Aug 16/1901
Ack: will receive consideration when estimates are before Congress.

Abstract of Contents

Ack. instructions May 27
Salary of Interpreter should be
$ 75.00=

Consular Bureau
AUG 14 1901

No. #

Consulate-General of the United States.

Shanghai, July 6th , 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hanve received your instructions of May 22nd in which you allow $1000.00 for a Marshall for the fiscal year ending June 30th, 1902; and $1600.00 for the salary of Interpreter for the same period.

I have to thank you for the raise for the Interpreter but also must again express my opinion that the salary of the Interpreter is entirely inadequate. I am of the opinion that if you will write to Mr. E. T. Williams, Chinese Secretary of our Legation at Peking, that he will say to you, from his experience, that the work here is as heavy and much more varied than the work of the Chinese Secretary in Peking. There is no doubt in my mind but that the salary of the Interpreter here should be $2500.00 per annum; and you can not expect to keep a good man for any length of time for a less figure.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

2

No. 345

INDEX BUREAU
REC'D.
AUG 10 '01
DEPT. OF STATE

Consulate-General of the United States.

Shanghai July 6 . 1901.

Mr. Goodnow

To the Department of State

Subject:

Rpls to Dispt #269

Send letter referred to us (Aug 5th)
Ack'd
To inquiries + ack by form
Aug 17. 1901.

Abstract of Contents

Inclosing letter to Thos McConway & Torley Co.

Consular Bureau
AUG 14 1901

Sample Book 1

Pencils

4

Book 1 1911-1912

Lessons Latin 1 Mr. Mackenzie, Teacher

No. 395

Consulate-General of the United States,

Shanghai, July 7th, , 190 1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Replying to your No. 269 of May 27th, I hand you herewith letter to the McConway & Torley Co, which I would ask you to transmit if consistent.

I am, Sir

Your obedient servant,

John Goodnow

Consul General.

(1 enc.)

CONSULAR SERVICE, U. S. A.

U. S. Consulate-General.

Shanghai, China, July 6th 1901.

Stephen C. Mason, Esq.,
Sec. McConway & Torley Co.,
Pittsburg, Pa.

Sir:

Replying to your letter of May 21st to the Department of State, I find that the 172 packages in question are stored in the C. M. S. N. Company's bonded warehouses in Shanghai; and That the Hongkong and Shanghai Bank here hold the bills of Lading. The Commissioner of Customs a few days ago made a demand on the Bank that the railroad should take the material or that the Bank should pay the duty (5%). The Bank asked for time to communicate with you which was granted. The Bank assures me that they will not sell the consignment or do anything with it without first notifying you.

The British Railway Administration are only taking over such things as they actually need. I have asked our Consul in Tientsin to see them in regard to this shipment and to endeavor to procure their acceptance of it.

I am, Sir, Your obedient servant,

John Goodnow C. G. U. S. A.

DEPARTMENT OF STATE

9 10 AM 1901

CLERK'S OFFICE

TELEGRAM RECEIVED.

1901

ASSISTANT SECRETARY,
19 Govt.
Via Eur a.
JUL 18 1901

From Shanghai,

July 18, 1901.

Received 9 18 AM

See State,

Washington.

Confirmed. JUL 23 1901
Ans JUL 20 1901

Consulate
with ref

Ragsdale sent 3 prisoners to this jail for 4 years; shall I receive and keep them.

Goodnow

No. 396.

Consulate-General of the United States,

Shanghai July 22 1901. , 190

Mr. Goodnow

To the Department of State

Subject:

Pardon Richard Toulmin.

To Atty Gen. Asst
AUG 28 1901 Form.
To Atty General with enc. enc.

Abstract of Contents

Returning warrant for pardon.

14

Consular Bureau
AUG26 1901

No. 396.

Consulate-General of the United States,

Shanghai, July 22 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Acknowledging your #270, and referring to my #394 of July 2nd, I beg to return to you the warrant for Richard Toulmin's pardon received here July 17th, sixteen days after Toulmin's death.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

1 enc

No. 397

DEPT OF STATE
AUG 27 1901
2ND ASST SECRETARY

DIPLOMATIC BUREAU.
Copy to Minister Conger when confirming telegram sent him Aug. 26-

CONSULAR BUREAU
Ack & file.

Consulate-General of the United States,

Shanghai, July 25th, 1901

Mr. Goodnow,

To the Department of State

DIPLOMATIC, AUG 27 1901 BUREAU

AUG 30 1901

Subject:

Prince Chun.

Abstract of Contents

Visit to Shanghai

Expects to arrive in the U. S. about Nov. 1st.

Consular Bureau AUG 26 1901

No. 397

Consulate-General of the United States,

Shanghai, July 25th, , 190 .1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that Prince Chun, brother to the Emperor of China, arrived in Shanghai July 16th, en route to Germany to apologize for the death of Baron von Kettler.

On themorning of the 17th, the Consuls called on him in a body. On the morning of the 18th, I called on him with members of the Consular force and with Captain Farenholt and officers of the U. S. S. Monadnack.

The Prince (or rather Wong Wen-shao, his councillor) said that, in response to the President's invitation, the party would reach New York early in November and expected to go immediately to Washington, thence across the Country to San Francisco and home via Japan. The Prince left on the Nord Deutcher LLoyd "Bayern" July 20th.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 398

PRINTED IN ADVANCE SHEETS NO. 1134

Mr. Conger

Consulate-General of the United States,

Shanghai, July 25th, 1901

AUG 26 '01

Mr. Goodnow,

To the Department of State

ACKNOWLEDGED
SEP 4 1901
Bureau of Foreign Commerce

Subject:

Floods in the Yangtse Valley

Abstract of Contents

Extensive floods, danger of famine and disturbance.

Consular Bureau
AUG26 1901

No. 399

Consulate-General of the United States,

Shanghai, July 25th , 1901

Mr. Goodnow,

To the Department of State

FILE

Subject:

Departments No. 272.

Bureau
AUG26 1901

Abstract of Contents

No. 399

Consulate-General of the United States,

Shanghai, July 25th , 1901

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have received your #272 of June 13th and have carefully read, and have retained a copy of your No. 144 to Mr. Fowler.

I thank you for the kind expressions in the latter regarding myself; and I can assure you that your instructions to me, implied and expressed therein, have been and will be carried out fully. I have endeavored to treat each and every Consul with courtesy and respect; and shall continue to do so.

With regard to the newspaper item mentioning my trip to inspect Consulates, I would explain that it was necessary to adjourn a case in Court and in discussing the date to which the case should be adjourned I mentioned casually that I would have to work on my Court cases as I could during the succeeding few weeks as I expected to make a visit to the several Consulates. The Reporters made an item that I was leaving to visit the different Consulates. Even they (a rare thing with reporters) made no insinuation of suspected irregularities. I certainly did not; nor did I then nor any other tour of inspection give out any of the results of the trip.

Thanking you again, I am, Sir

Your obedient servant,

John Goodnow

Consul General.



No. 400

Consulate-General of the United States,

Shanghai, July 25th , 190 1

Mr. Goodnow,

To the Department of State

Subject:

Allowance for furniture.

Ack'd Aug 27 1901 /torn.

Abstract of Contents

Thanks for allowance.

New flag staff.

Consular Bureau. AUG26 1901

No. 400

Consulate-General of the United States,

Shanghai, July 25th, 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your No. 273 of June 19th, allowing me to expend the sum of $500.00 in the purchase of articles of furniture suitable and appropriate for Consular purposes, and to include the amount expended under this in my contingent expense account. I desire to thank you for the same.

Owing to the fact that it has rained almost continuously for the last two months, the new building is not yet ready for our occupancy. I have begun to move today, and hope that by August third we will be located in the new building, of wich I will then send you full description with photographs.

Incidentally, I desire to say that it has been a very sore point with me that our present flag staff would not allow our flag to be seen except from the street immediately in front of our building. I am therefore most delighted to be able to report that at the new building we have a flag staff standing 106 feet high and that the flag flying from its top can be seen from almost every part of the city.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 401

Consulate-General of the United States,

Shanghai, July 25th, 190 1

Mr. Goodnow,

To the Department of State

To the Chairmen House & Senate Foreign Rels. Comes Dec 17-1901

Subject:

Chinkiang Consulate.

Abstract of Contents

Return from Nanking to Chinkiang.

Regret at and arguments against.

Consular Bureau. AUG26 1901

Consular Bureau. DEC 9 1901

No. 401

Consulate-General of the United States,

Shanghai, July 25th, , 190 . 1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Acknowledging receipt of your #274, I have to report that I have received and forwarded your Nos. 52 and 53 to Consul Martin. I had already received a letter from Mrs. Della E. Jones making complaint, and had sent the same to Consul Martin asking him to make me such report as he cared in the matter.

I regret exceedingly that you find it necessary to order him back to Chinkiang at the present time. He has given up the house in Chinkiang which I am told (but do not know certainly) has been rented to another party. He has informed me that he has leased a place in Nanking. It will be almost impossible, if the Jones house has been rented, to obtain another place in Chinkiang. Also, in my opinion, it will be necessary, should he return to Chinkiang, that he should go to Nanking at least once a week. Nanking is to day equally important with Peking, on account of the character and predominating influence of the Viceroy at Nanking. The British, German and Japanese have found it necessary to establish Consulates there during the past year. We stand on the most friendly terms with the Viceroy. We can do business better and obtain information more accurately, by a man on the ground then by a letter. I sincerely reccomend Consul Martin's retention at Nanking.

I am, Sir, Your obedient servant,

John Goodnow

Consul General.

Recap 6
67 Nov 13 - Dec from C

401 - July 25 from Shang
333 Nov 16

Ann 48 Dec 22/00 to Ch.

No. 410

Consulate-General of the United States,

Shanghai China July 26, 1901

Mr. Goodnow

To the Department of State -

Copy to Atty. Gen'l. July 31 C.J.

Subject:

Prisoners Winn, Plant & Butler

To Atty General Aug. 31, 1901

To Atty General Feb. 26, 1902

Abstract of Contents

Confirming telegrams.
Recommending these prisoners be sent to U.S.
Various recommendations about trials in China &

AUG 26 1901 DEPT OF STATE

ASST'N MAR 7 1902

INDEX BUREAU NOV 15 1909 FILED

No. 402

Consulate-General of the United States,

Shanghai, July 26th, , 190 .1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm my telegram of July 18th "Ragsdale sent three prisoners to this jail for four years. Shall I receive and keep them?"

And your reply of July 20th "Keep prisoners pending removal to United States. Report fully."

On the 18th of July I received the following dated July 13th signed J. W. Ragsdale, U. S. Consul, Acting judicially,

"I have the honor to inform you that on July 12th 1901 three American citizens, namely Richard Leslie Butler, James Winn, and Alfred Plant, were convicted in the Court of this Consulate for the crime of "Robbery with violence" and sentenced to confinement in prison for the term of four years. I have therefor instructed the Marshall of the Court to proceed with the prisoners to Shanghai and turn them over to you that the penalty may be meted out to them as per regulations."

The first notice I had of the intention to send the prisoners here was their arrival. I imprisoned them in the Consular jail here until we began to move and they are now in the English jail, through the courtesy of H. B. M.'s Consul General, until we get settled in our new quarters.

I have no account from Mr. Ragsdale, nor have I seen any account in the newspapers, of their trial. I have examined the men carefully. One of them is in good health, but two are suffering severely from syphilitic attacks.

Richard Leslie Butler says that he was born in Seattle, Washington in 1872; that his sister Mrs. George Barthrop lives at 208 South 2nd St., Seattle. He came to Shanghai on a sailing vessel and served on the police force from February to July, 1900, when he was discharged for drunkenness and went to Tientsin. He has had no regular employment there since March 1901.

James Winn says that he was born in Cleveland, Ohio, in 1873, and that his mother Mrs. Frank Winn lives at #1224 Lorain St., Cleveland. He came to Manila in the quartermaster's Department and thence to Shanghai where he served as Tidewaiter from June to September 1900; he then returned to Manila and went to Taku in a transport; has had no regular employment in the North.

Alfred Plant says that he was born in Ireland in 1864; went to the United States in 1872 with his brother Walter Plant, now in St. Marys, Kansas; was naturalized in SanFrancisco in 1898. He came to Manila as cook for A. Company, Kansas Volunteers.; from the Captain of which he has a good recommendation (Enclosure 1). He went to Taku as a cook in the Quartermaster's Department. From Dec. 1st, 1900 until June 1901 he kept a saloon at Tungchow.

These men all claim that they, in conjunction with a Danish subjectnamed Holm and an Englishman named Piper, were employed by a Chinese to go with him to recover certain property which he claimed a pawnbroker was unjustly detaining; that they went with him and sat in an outer

room smoking, while the Chinese negotiated with the pawn broker; that after they left the pawn shop Chinese soldiers pursued and captured them all. They were taken to Peking and sent to the U. S. Consulate at Tientsin. For some reason, as yet to me unknown, Holm, the Dane, was set free without trial. The Danish Consul here claims that Holm should have been turned over to the Russian Consul in Tientsin who represents Denmark there. I have written Mr. Ragsdale asking why this was not done. The Danish authorities are attempting to recapture Holm; and should they do so, in a case of this gravity Holm must be sent to Denmark for sentence. The Englishman, Piper, has been committed for trial. The maximum sentence which can be given him is imprisonment for one year. The Americans were sentenced for four years.

[We are likely to have a number of such cases in China. It is a matter of record that in the disorganized state of the general Government after the Taiping Rebellion, Chinese and foreigners acting together used the prestige and strength of the foreigner to commit local robberies such as the one in question. Several such have been committed in different parts of China during the present year; but this is the first one which has been prosecuted. It may reasonably be expected that as the armies are taken away, the camp followers will utilize the disorganized state of the Country to rob the timid and terror stricken Chinese.]

I would respectfully recommend

1. That, if the men are to serve their full term, I be instructed by you to send them to some prison in the United States. A four years confinement in this part of

China is a death sentence. I do not know of any other Nationality which confines a prisoner longer than a year in China. Longer sentences must be served in the home countries. It is known that health can only be maintained here by daily, vigorous exercise in the open air. The prisoner Toulmin, after the first six months, was given permission to go where he pleased out of doors one or two hours daily. He was also given free run of the building at all times and was given a sufficiency of work. In spite of this his health continually broke; and he died before he had been confined three years. I can not therefore too earnestly recommend that these and all prisoners sentenced for more than one year shall be sent to the United States to serve their sentences.

2. I would recommend to your careful consideration a step toward a separate Judicial system in China. As our business increases (and we find that litigation increases with the increase of business) there should be a Judge resident in Shanghai and with full jurisdiction in this Port. In the outports preliminary papers, etc., should be filed with the Consul and petty cases should be tried by the Consul; but the Judge should try all cases of any importance in all the Ports of China. You sent me to Canton in an advisory capacity and to represent you in the trial of Richard Toulmin.

I would recommend that you should instruct the Consuls to notify you by wire of any case which is likely to require more than ninety days imprisonement or that involves over $500.00 ! and that you instruct the Consul General to attend any such trial in the same capacity as that in which I attended Toulmin's trial.

This is not a reflection on the capacity of any U. S. Consul in China. Each and all of them are as capable a s I of understand a case. It is a fact, however, that very few cases are heard outside of Shanghai and the other Consuls are not therefore compelled to keep up in United States law and practice and in the practice of other Nationalities. Neither have they the same access to law books which I have. Most of our Consulshave at different times applied to me for advice and direction in regard to probate and other cases coming before them. I yesterday received a wire from Consul Fowler asking me to send him books on Maritime law and Insurance, saying that an important case is pending in his Court and no law books. Incidentally, I promptly loaned him such books as I had, although very much to my own inconvenience. I was forced by the needs of this office to ask him to return them within a week. The Consul General could be sent in the capacity in which you sent me to Toulmin's trial with advantage to the service and the advoidance of friction with other Nationalities. It is now creating very great embarassment to the British authorities that these Americans should have received four times as severe a punishment as the British law allows to be inflicted on the Englishman who is equally guilty.

I hope you will appreciate that this is not self seeking on my part. Should you adopt my suggestion, it would take some of my time; and I find that when I am away my work piles up on my desk. We have not as yet sufficient business to justify the expense of a separate Judicial system. My suggestion, while not trenching on the equal Judicial powers of all U. S. Consuls in China, would tend

~~tend~~ to, unify our Judicial system and pave the way for a separate Judiciary when that should be found neces sary.

Should you instruct me to send Butler, Winn and Plant to the United States, please state whether the Marshall's travel fee of 15 cents per mile would apply in such case. You might be able to arrange for me to deliver the men to a transport in Nagasaki to be delivered to your agents in the United States. I understand that the Transports have strong rooms where the men could be confined. If the war Department deemed it necessary that a man should go with them, a time expired Marine might possibly be detailed for such duty. Some such plan would save heavy travelling expenses.

I am, Sir, your obedient servant,

John Goodnow
Consul General.

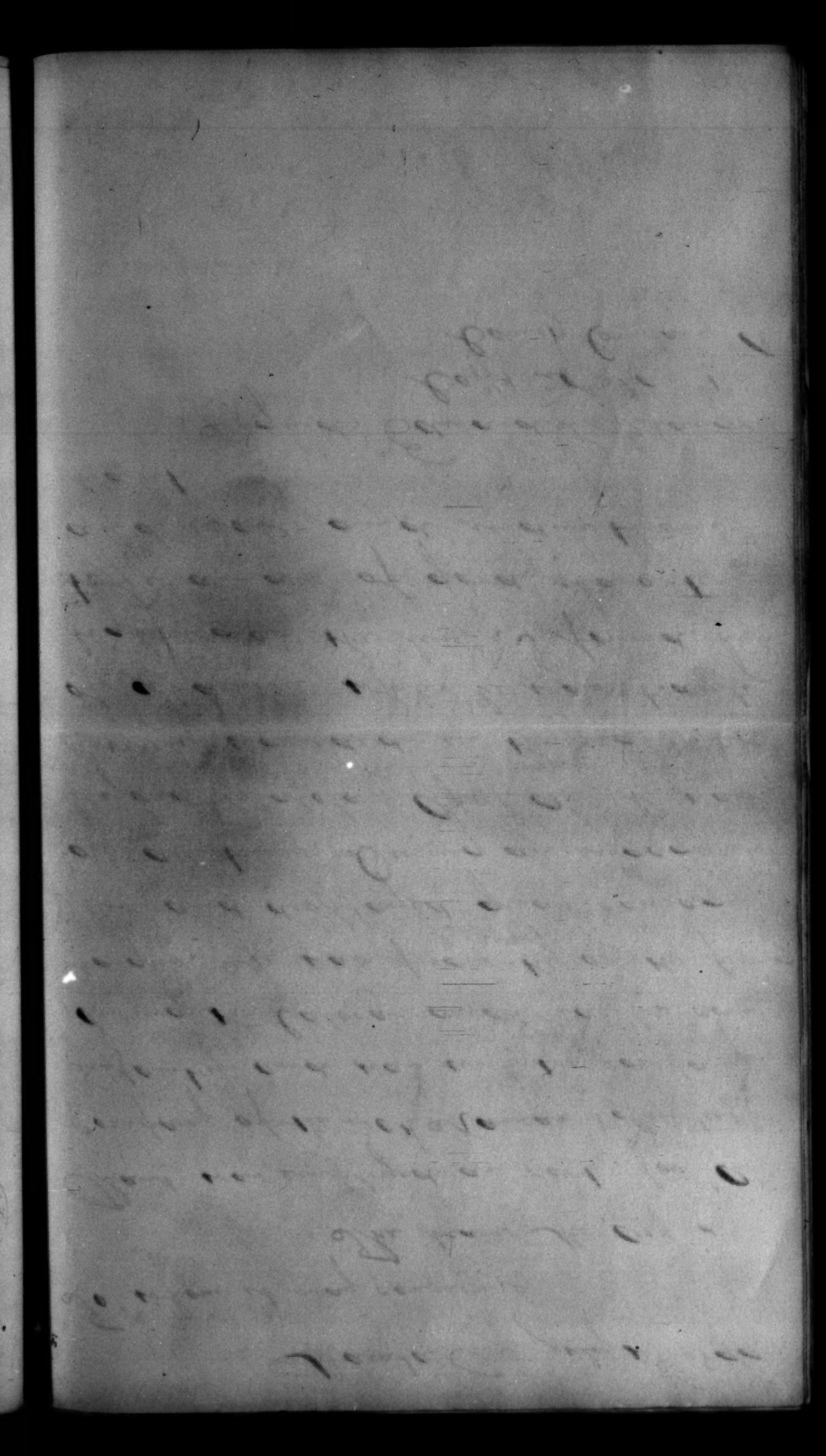
(1 enm.)

Manila. P. I. July 4th 1899.

To whom it may concern:-

The bearer, Mr. Alfred Plant, was employed as cook for "A" company of the 20th Kansas Volunteer Infantry and was with the company during the Caloocan and Malolos campaigns. He was frequently on the firing line and displayed great courage at all times. During an engagement beyond Malolas, April 9th, he was severely wounded in the right side of abdomen while he was bravely fighting on the line. I found him to be a man of good character and sober and industrious habits.

(Signed) Edward L. Glasgow.
Capt. 20th Kans. U.S.V.
Comdg Company "A".



No. =

Consulate-General of the United States,

Shanghai Aug 6, 1901

Mr. Goodnow

To the Department of State

ANS'D SEP 30 1901

Subject:

Publications

Abstract of Contents

Request Pres't Nanyang College for official publications

Consular Bureau
SEP 9 1901

Bureau of Foreign Commerce
SENT
SEP 11 1901
DEPARTMENT OF STATE.

No. =

Consulate-General of the United States,

Shanghai Aug 6, 1901.

Honorable Loomis

Assistant Secretary of State,

Washington, D. C.

Sir:

I have the honor to transmit herewith letter of Mr. Thos. Hanyang College, which explains itself.

I am, Sir, your obedient servant

John Goodnow

C.G. U.S.A.

1 enclosure —

No. 403.

Consulate-General of the United States,

Shanghai July 27 1901. 190

Mr. Goodnow,

To the Department of State.

Subject:

Interpreter.

Ask write to consulate
Rec'd Aug 27-1901

Abstract of Contents

Enclosing letter from Dr. Barchet.

Consular Bureau.
AUG 27 1901

No. 403.

Consulate-General of the United States,

Shanghai July 27 1901. , 190 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

1/ I have to enclose herewith a letter from S. P. Barchet, interpreter , which explains itself.

I have written so often on this subject that I fear I weary you. I will only say that I fully agree with Dr. Barchet.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

CONSULAR SERVICE, U. S. A.

U. S. Consulate-General

Shanghai, China, July 26th 1904

Hon. J. Goodnow.
Consul-General U.S.A

Dear Sir,

I beg to express my appreciation of the addition of $100= gold to my salary as Interpreter of the U.S. Consulate-General at Shanghai. It is a sign that your Interpreter is not forgotten: as the subject of interpretation has received more or less attention of late. I venture to make a few remarks from the Interpreter's standpoint.

In Shanghai, the Interpreter's duties are not confined simply to such translation as is necessary, but he represents the American interests of the Community as U.S. Assessor of the Mixed Court. There is necessarily a certain amount of social intercourse between the

CONSULAR SERVICE, U. S. A.

U. S. Consulate-General

Shanghai, China, ... 1906

Mixed Court Magistrate & the Interpreter. as they have frequently to exchange calls on business, and in a social way. for others, as well as themselves. To fulfil these duties in a manner befitting the dignity of the U. S. Consulate-General, requires a style of living not easily maintained in Shanghai under existing circumstances. In addition to the enormous rise in rents. which has lately taken place - involving higher rates & taxes as these must also be paid by the leaseholder - the cost of provisions & necessaries of all kinds have increased correspondingly. This is serious, especially since our health and consequent ability to work is more dependent in this Climate on the mode of life than in the United States.

The Interpreter's present salary is $1600 a year which should be added sundry official fees, which however do not make a large total, and he does not

CONSULAR SERVICE, U. S. A.

U. S. Consulate-General

Shanghai, China, ... 1900

allowed to engage privately in any business.
But there is no provision whatever for a change
to the home land in case of illness, nor any
allowance made for those who become supernumeraries
in the service. The U. S. Government is very
generous to those who serve in the Army or Navy.
The Interpreter also deserves some consideration.
Many years are spent in acquiring the knowledge
necessary to the proper & acceptable fulfilment
of the various duties demanding one's energies.
Especially is this true in China — as it is no
secret that the Chinese language requires years
of patient, unremitting study.

Considering that the Interpreter's salary
is little that of Interpreters in other Consulates —
barely enough to maintain him and his family
in Shanghai, without allowing for necessary

CONSULAR SERVICE, U. S. A.

U. S. Consulate-General

Shanghai, China, ... 1907

furloughs and other extra calls upon funds and considering the fact that your Interpreter has to give his whole time to the increasing work of the Consulate-General, may I ask you to recommend to the Department of State an increase of the Interpreter's salary to at least $2.000= gold per annum?

I have the honor to be

Sir

Your obedient servant

Stephen P. Bachelet

Stephen A Hurlbut

LISHED BY
Edict, 1897.

PRESIDENT'S OFFICE,
Nanyang College, Shangbai.
Aug. 5th 1901

Hon. John Goodnow,
U.S. Consul-General, Shanghai,



My dear Sir,

Enclosed I beg to
nd you a list of Publications of the
ited States Government which we would
e to add to our College Library. Will
u kindly request that they be sent to
and greatly oblige,

Yours truly
John C. Ferguson
President

Can't find this —

Just Re
Wenk
Marine

Re

U.S. Government Publications

Foreign Relations of the United States: Series from 1870 to the present time		Washington (State Department)	Library
War notes Series, on the Spanish-American War	(1900)	Naval Intelligence Office - Washington	
Papers relating to International agreements in the matter of the Samoan Islands	(1899)	State Department Washington	Library
All documents relating to International relations in China in 1900-1901. (including "Red Book" 1901)		State Department Washington	Library Private
Reports of the Philippine Commission	1900 and 1901	War Department Washington	Library
Report on the Island of Porto Rico -	(1899) by H. K. Carroll	do.	
Reports of U.S. Consular Officers on Ship Subsidies in European Countries	(1899)	State Dept Washington	Serial
Reports on Europeans residents in South America	(1900)	do	Serial Emery
Proposed Amendments to the Constitution of the U.S.	(by H.H. Amos) (1897)	Washington	
The Aldrich Committee's Report on Prices, - to the U.S. Senate	(1893)	Washington	

U.S. Government Publications (Con)

stract of the Eleventh Census	2d Edn 1896	U.S. Census Bureau Washington
rt on Crime, Pauperism & Benevolence, at the Eleventh Census	By F. H. Wines (2 parts) 1895-6	do.
rt on the Factory System of the U.S. at the 10th Census	By C. D. Wright 1883	U.S. Dept. of Labor Washington (or U.S. Census Bureau)
rt on Manufacturing Industries at the Eleventh Census	(3 parts) 1895	U.S. Census Bureau Washington
rt on Population at the 11th Census	(2 vols) 1895-97	do.
eral Reports and Abstract, 12th Census	1901	U.S. Census Bureau
to the Publications of the U.S. Census	E. C. Lunt	do.
rnational Arbitrations	J.B. Moore (4 vols) (1898)	Govt Printing Off. Washington
rnational Law Digest	Wharton 2d Ed. 1887 3 vols	do. none left

Publications:

No. 404

Consulate-General of the United States,

Shanghai Aug. 7. 1901.

RECEIVED BUREAU OF RECORDS SEP 9 1901 DEPT OF STATE

Mr. Goodnow

To the Department of State

Rec'd SEP 10 1901 Pouch

Subject:

Riot at Chih-Kan.

Abstract of Contents

Report of M. Gayat. French Vice-Consul.
agreement bet. Catholics & Protestants.

Consular Bureau. SEP 9 1901

No. 404

Consulate-General of the United States,

Shanghai, August 7th, 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

On the fourth of July there was a riot of the town of Chih-kan, twenty miles from Nanchang, Kiangsi Province. Apparently they were some members of the Catholic Church on one side; and some members of the American Methodist Church on the other. At any rate the two Churches got sufficiently mixed up in the affa ir that the French Consul General sent his Vice-Consul to Nanchang to make some working arr angement by which the guilty parties could be punished. He has just returned to Shanghai and his report has been confirmed by a letter from Rev. D. W. Nichols who is in charge of the American Mission work at that point. It has been agreed that all parties charged with complicity in the riot (with one exception) shall be turned over to the proper Chinese authorities to be tried and punished, without any interference from foreigners, either Catholic or protestant. I have written to the Governor of Kiangsi expressing my satisfaction and making the general statement to him that we do not intend to interfere with the proper Chinese Jurisdiction over Chinese who become membersof American churches.

The French Consul General has asked that one Chinese Catholic priest who is charged with being a leader in the riot shall be first tried by his Bishop at Kiukiang and shall only be turned over to the Chinese if the Bishop finds it necessary. I have agreed to make no objection to this.

The Consul General does not say that this is the ideally right thing to do; but that it will enable him to get proper Justice done to the priest with the least possible friction between himself and the Church authorities.

Kiangsi province has become notorious for its troubles between so called Catholics and so called Protestants. From the best of information in my possession, I am of the belief that in that region Chinese who have clan feuds to fight out, often call themselves Catholics or Protestants although not belonging to either Church, but hoping for the prestige of the foreign name and the protection

M. Gayat, the French Vice Consul who was sent to Kanchang, deserves great credit for his fairness and impartiality to both sides in the matter. Rev. Mr. Nichols in charge of the American work there, has in this as in other troubles exhinited a great readiness to conciliate opposing factions and avoid friction with the leaders of other Missions and with the Chinese authorities.

I am, Sir, Your obedient servant,

John Goodnow

Consul General

Cons Bureau
Mr Morrison

No. 405.

Consulate-General of the United States,

Shanghai, China, August 19. 1901. 190

Answered Sept. 3 1901.

Mr. Goodnow,

To the Department of State

Subject:

Shanghai Senior Consul.

3rd. ASST. SECRETARY. SEP 20 1901

Abstract of Contents

Took overcharge of Senior Consul's affairs Aug. 15.
Hope that it will be little extra expense.

Consular Bureau SEP 21 1901

No. 405.

Consulate-General of the United States,

Shanghai, August 19, 1901. . . 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that the Portuguese Consul General, who has been Senior Consul in Shanghai, has left Shanghai, and that thereby the duties of Senior Consul fall on me.

All the matters between the Municipality and the Chinese will go through my hands. All matters in which the Consuls act together are arranged by me. The position involves much extra calling and ceremony. It means as you see much extra work; but it also means much extra American prestige here, especially with the Chinese. I did not therefore feel free to refuse it.

I am trying to do this work without any increase of force; it may be necessary for me to have an extra Chinese writer and another coolie. I can get the two, if they are necessary, for gold $ 20. per m month. But I will not get either if I can possibly get on without them.

I am, Sir, your obedient servant.

Consul General.

No. 7

CONSULAR BUREAU.
NOTED.

Consulate-General of the United States,

Shanghai, China, 19th, Aug , 1901.

Mr. John Goodnow,

To the Department of State.

Acknowledged by form of October 4, 1901, Asst Sec'y

Subject:

Enclosing Marriage Certificate.

Abstract of Contents.

Consular Bureau
SEP20 1901

No. #

Consulate-General of the United States,

Shanghai, China, 19th, August , 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Herewith please find enclosed marriage certificate of John W. Bradley and Mamie B. McCellum.

I have the honour to be,

Sir,

Your obedient servant,

John Goodnow

Consul General, U.S.A.

Enclosure: one as above stated.

CERTIFICATE OF MARRIAGE

CONSULAR BUREAU
NOTED.

Consular Office of the United States of America

SHANGHAI, CHINA Aug. 17 1901

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this 17 day of Aug A. D., 19 , at 38 Taiwan Road in the city of Shanghai China John W. Bradley, aged 28 years, born in Bishopville S. C. and now residing in Suchien China, and Mamie B Wollum, aged 26 years born in Bennettsville S.C. and now residing in Suchien, were United in Marriage before me, and in my presence, by Rev H Mosey Smith, who is authorized by the laws of South Carolina to perform such a ceremony.

In Witness Whereof *I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this* 17 *day of* Aug, *A. D. 1901, and of the Independence of the United States the* 125

[L. S.]

John Goodnow
Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



Arrived

No. 406.

Consulate-General of the United States,

Shanghai Aug. 21 1901. , 190

Mr. Goodnow

To the Department of State

ARR'D SEP 25 1901

Subject:

Shipment of McConway & Torley Co.

Abstract of Contents

Enclosing letter to McC & T Co and
one letter to me from J W Ragsdale and
one from C W. Kinder to Ragsdale.

Consular Bureau
SEP24 1901

No. 406.

Consulate-General of the United States,

Shanghai Aug. 21, 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to your #269 of May 27, and to my #395 of July 7th, I enclose herewith letter to the McConway and Torley Co. with enclosures, which I would ask you to forward.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 8

Consulate-General of the United States,

Shanghai, August 30th, 190 1

Mr. Goodnow,

To the Department of State

AUS 1 OCT 6 1901

Subject:

U. S. vs Burke.

Abstract of Contents

Enclosing in duplicate report of case.

Consular Bureau
OCT 3 1901

No. 4

Consulate-General of the United States,

Shanghai, China, August 30 1901. 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith (in duplicate) proceedings in U. S. versus Bourke.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

2 enclosures.

U. S. CONSULAR COURT.

Shanghai, 29th August.

Before J. Goodnow, Esq., Consul General (Acting Judicially).

U. S. People v. Browne-Burke.

This was the resumed hearing of the charge against A. J. E. Browne-Burke, lawyer, of Siking Road, of having been drunk and creating a disturbance in the Astor House at 7 p.m. on the 27th inst., and also of being drunk and disorderly and resisting the police in the execution of their duty in Whangpoo Road on the same date.

Inspector Aiers stated that on the evening of the 27th inst. a message was received at the Hongkew Police Station, asking that a constable be sent at once to the Astor House as a man was creating a disturbance there. Witness sent Sergeant McDowell to attend to the matter.

Mr. Vernon, managing-director of the Astor House Hotel Company, said that on the evening of the 27th inst., just before dinner, he saw the defendant making himself objectionable to several passengers who were sitting on the verandah. Defendant was misbehaving himself and was drunk. Witness asked him to go away, but defendant replied that he was a lawyer and a gentleman whereas witness was only an hotel manager. He refused to go away.

Cross-examined by defendant.—He saw defendant on the verandah about 4 o'clock in the afternoon; he did not take any notice of defendant but spoke to the other gentlemen who were with him. He did not wish to converse with defendant because he was annoyed with him on account of his conduct on previous occasions.

E. J. W. Loureiro, acting manager of the hotel, said that he had had his attention called to defendant's conduct in the hotel on several previous occasions. On the evening of the 27th inst., defendant was worrying the life out of the hotel boys and actually struck one of the boys. A guest had complained to witness that he had been annoyed by defendant at one o'clock on the previous Sunday morning. On the evening in question defendant was very drunk and was generally misbehaving himself. Witness saw from defendant's eyes and from the way he behaved that he was drunk.

Cross-examined.—It was on Sunday morning that the guest complained of having been annoyed by defendant. On the evening of the 27th inst., defendant was treating the boys very roughly.

A native bar boy at the Astor House was called and said that on the evening of the 27th inst., defendant threw a bottle of Rainier beer at him, but he dodged out of the way. The bottle fell on the floor and was broken. Witness did not serve defendant with any drinks.

Cross-examined.—It was at a quarter past eleven on Tuesday night that the bottle of beer was thrown. He had seen defendant at the Hotel several times and knew what sort of a man he was. He did not know whether defendant signed any chits on Tuesday; he did not wait on him.

A bar-tender named Winton said that on the day in question defendant was drunk. He was annoying the boys and hit one of them with his umbrella.

Cross-examined.—Defendant paid cash for the only drink that he had to witness's knowledge; as a rule he signed chits. Defendant did not throw the bottle of beer at the boy. He picked up the bottle and the boy ran away. The bottle then fell on the floor and was broken. Defendant, however, threw cigars at the boys. On previous occasions when defendant had been in the hotel he had behaved fairly well as far as witness could remember, but on this occasion he behaved so badly that he was asked to leave the hotel.

By the Court—Witness saw defendant have a drink at the hotel bar. He was not drunk then. He must have also been drinking outside. Afterwards witnesses noticed that he was drunk and refused to serve him with any more drink.

A steward named Larsen also gave evidence and said that on Tuesday evening a boy complained to him that defendant would not sign a chit for some drinks that he had ordered. Witness asked defendant about the matter, and the latter replied that he had given the boy one dollar for the drinks and one dollar to get him some small change. The boy told witness that defendant had only given him $1 for which he had given him the equivalent in small change. Witness explained this to defendant and offered to have the boy searched but defendant said it did not matter. Witness saw defendant snatch a match box from one boy and throw it at another. Mr. Vernon came in then and asked defendant to leave the hotel, but he refused. Defendant then went on to the verandah and commenced to annoy the guests, and Mr. Vernon threatened to send for the police. Defendant said that no policeman in Shanghai could arrest him. Mr. Vernon sent for the police and a detective came and ejected him.

Cross-examined—He did not know the name of the guest whom defendant seized by the coat sleeve. He had seen defendant in the Hotel on several occasions, but had never seen him behave so badly as on this occasion.

Witness—proceeded to question defendant as to what happened on the previous Saturday, but his Honour declined to hear this.

Cross-examined further—Witness did not see defendant throw the bottle of beer, but was told about it. He saw him annoying the Hotel guests.

Detective-Sergeant McDowell said that at 7 p.m. on the 27th inst. he was told to go to the Astor House as there was a disturbance there. On his arrival there he stood at the hall door for a short time to see what was happening. He saw that defendant was drunk and acting in a disorderly manner and heard him refuse to leave the premises when requested to do so by Mr. Vernon. Witness went up to defendant and asked him to leave the premises or he would have to be forcibly ejected. Defendant refused to go and began talking nonsense. Witness then had to use force to get him outside. When they got outside witness told defendant to get into a ricsha and go home, but defendant would not go. Witness then took him to the police station.

Cross-examined—He resisted arrest. It was not true that witness offered to let him go if he was paid to do so. On the way to the station defendant said that he was an Irish barrister and an American lawyer, but that was the only conversation. It was not true that witness had been several times to defendant's office saying that he could put business into defendant's hands. The only time he had called at defendant's office was when he went to take the statements of some Chinese with reference to a serious charge against defendant. Defendant had been locked up several times, but the charges had not been pressed. Witness had also seen him put out of the Central Hotel and the Central Police canteen. On one occasion defendant had broken into a Chinese house, but the matter was settled by defendant paying compensation.

Inspector Aiers said that he was called up when defendant was brought to the station. The defendant was drunk.

Cross-examined—Defendant had no conversation with him in the private office. They conversed for about five minutes in the charge room. Defendant asked what the charge was and witness replied that the hotel people had charged him and the detective had also charged him with being drunk and disorderly. Defendant then took a dollar out of his pocket, laid it on the desk and said that if witness would let him go he could have it, and more if that was not enough.

By the Court—A month ago defendant was charged with assaulting a constable. A summons was issued, but was withdrawn when the defendant apologised to the Captain-Superintendent.

Defendant said that on the 27th inst. at a quarter to five he went to the Astor House and met a gentleman there. He sat down with the gentleman and had a drink with him. After talking with his friend for some time, he got up to leave the hotel. He had an argument with the manager about having paid the boy for some drinks and the manager offered to have the boy searched. He said that it did not matter. The boy then came up and denied that he had received the money and offered to bring other boys to testify to this. Then Mr. Loureiro came.

Defendant then began to refer to the altercation of the previous Saturday, but his Honour refused to hear this.

Defendant (continuing) said that Mr. Vernon afterwards came up and said that he had had a lot of trouble with American people before and that if this sort of thing occurred again he would get his European assistants to batter the life out of defendant. He had had practically nothing to drink that day. He had had nothing since tiffin before going to the Astor House. He had only three or four drinks there and was perfectly sober. He was perhaps mentally intoxicated as he was so annoyed about the boy denying that he had received the $2. He was not at all drunk. If he had been, he would not have been able to walk or converse. He had several witnesses who had offered to come and give evidence, but he had not yet been able to see them. He did not wish to mention their names before seeing them.

His Honour—If you will give me the names I will subpœna them.

Defendant said that he preferred to see them himself first.

His Honour said that he had given defendant 24 hours to prepare his evidence and get witnesses but there were no witnesses present.

Defendant said that several people had promised to give evidence if he called them, but he did not wish to drag them into the matter unnecessarily. He would rather bear the whole brunt of the matter himself.

His Honour said that it was a serious matter. He warned defendant that it depended on the result of this case as to whether defendant would be allowed to continue to practise as a lawyer in that Court.

After some discussion, the hearing was adjourned until 2 o'clock to enable denfendant to bring his witnesses to Court.

Upon resuming,

Two more witnesses were called. The first witness said that he saw defendant in the Astor House on the 27th instant. He was only a short time with defendant and could not say whether he was drunk or not. He did not see him misbehave.

The second witness said that in his opinion defendant was drunk. He was behaving in a very boisterous manner and was making himself a nuisance to the guests.

Cross-examined—The defendant tried to engage several people in conversation, but they moved away from him.

Defendant said that he had not been able to see those people who had stated that they were willing to come as witnesses. He could not remember the names of the people he met that afternoon. The last drink he had was an appetiser. It was about dinner time and it seemed reasonable that he should have had such a drink. He wished to say that it was well-known that there were numerous complaints about the treatment people met with at the Astor House. People were treated in the same way as he had been, without the slightest provocation. There was scarcely an instance of guests being well served at the hotel. It was impossible to get a bottle of any cold drink there. Since he became a resident in Shanghai he had always been a patron of the Astor House. His chits were always paid. He thought people who were allowed to sign chits and who paid their chits ought to be treated better. The majority of people who frequented this hotel were absolutely dissatisfied. It was an annoying thing for the boy to dispute about the payment for the drink. He gave the boy $2 for the drinks and asked for the balance in small change. The boy brought a dollar's worth of small change and then brought a chit to be signed. That was quite sufficient provocation. It was quite possible that he would act again in the same manner if such a thing occurred again. A drunken man could not take care of himself and could not maintain his footing; a drunken man was incapable. If he had been drunk it did not seem reasonable that he would have ordered the French drink. It was an appetiser before dinner and a favourite drink of his. He was grossly insulted in that hotel and the manager had to apologise to him for having given the order that he could not sign chits.

His Honour said that he had to regard the defendant not only as an individual but also as a lawyer. He had also to consider that this was not the first offence. Defendant had been warned more than once. When he consented to a summons being withdrawn two months ago he intimated that the next offence would be considered as the second offence. From the evidence before the Court, he had not the slightest doubt that the defendant was drunk and misbehaved himself, at the same time he was expecting for some time that that some such case as this was coming. He would on this matter fine the defendant $25 and costs. He was sorry to have to take this course, but he must ask defendant to return the certificate give to him to enable him to practise in that Court. The defendant must not practise as a lawyer either in that Court or in the Mixed Court before the U. S. Assessor for the next three months.

ask to

File.

No. 41

Consulate-General of the United States,

Shanghai, Sept. 3rd, 1901

Mr. Goodnow,

To the Department of State

Subject: Death of an American citizen.

Abstract of Contents

Reporting death of John Strong.

RECEIVED OCT 3 1901 DEPT OF STATE

Consular Bureau OCT 3 1901

No. 4

Consulate-General of the United States,

Shanghai, Sept. 3rd, , 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I send you herewith (in duplicate) report of the death of John Strong, including statement of such property as I have now in my hands.

I am, Sir, your obedient servant,

Consul General.



(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Sept. 2 ,1901. 190

Name: John Strong

Native or naturalized: native.

Date of death August 30 1901.

Place of death: General Hospital, Shanghai.

Cause of death: Pulmonary tuberculosis.

Disposition of remains: interred in Bubbling Well Cemetery.

Local law as to disinterring remains in case it is desired to bring them home:

no law. Removal possible.

Disposition of effects: by will.

Address of family: Sister is Mrs. Joseph Karg, 56 S. 9th St. Brooklyn N. Y.

Family notified: yes,; by me; by mail.

Accompanied by relatives: no.

This information, inventory, accounts, etc., recorded in Miscellaneous Department *Record Book, page* 132.

Remarks: The will is set for probate Sept 12th and an inventory can not be made until then. Money is owing him near Wuhu; also near Tientsin; I have a draft on Ny Y for $2500. and his a/c in bank for Tls 1492.20 and Yen 15. There is also here some personal clothing which will be sent to me as soon as disinfected. Then I will send inventory of that.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

CONSULAR BUREAU
NOTED

No. 4



Consulate-General of the United States,

Shanghai, Sept. 6 1901. , 190

Mr. Goodnow

To the Department of State

Note read
acknowledged by form
October 12. 1901.

Subject:
Death of Mrs. A. P. Parker.

Abstract of Contents

Enclosing report in duplicate.



No. 4

Consulate-General of the United States,

Shanghai, Sept. 6 1901. , 190 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith report (in duplicate) of the death of Mrs. A. P. Parker.

I am, Sir, your obedient servant.

John Goodnow

Consul General.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, September 6 1901. 190

Name: Mrs. A. P. Parker

Native or naturalized: native.

Date of death: Sept. 6 1901.

Place of death: Anglo-Chinese College, Shanghai.

Cause of death: Dysentery.

Disposition of remains: Pahsienjao Cemetery.

Local law as to disinterring remains in case it is desired to bring them home: can be done.

Disposition of effects: taken by husband. There are no children and Mrs. Parker had no property except personal clothing.

Address of family: Anglo Chinese College, Shanghai.

Family notified: Yes.

Accompanied by relatives: Husband.

This information, inventory, accounts, etc., recorded in Miscellaneous Department. *Record Book, page* 134.

Remarks:

[SEAL.]

John Goodnow

Consul-General of the United States.

CONSULAR BUREAU RECEIVED

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

DUPLICATE

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, September, 6th, 1901. 190

Name: Mrs. A. P. parker

Native or naturalized: native.

Date of death: Sept, 6, 1901.

Place of death: Anglo-Chinese College, Shanghai.

Cause of death: Dysentery.

Disposition of remains: Pahsienjao Cemetery.

Local law as to disinterring remains in case it is desired to bring them home: can be done.

Disposition of effects: taken by husband. There are no children and Mrs. Parker had no property expect personal clothing.

Address of family: Anglo-Chinese College, Shanghai.

Family notified: Yes.

Accompanied by relatives: Husband.

This information, inventory, accounts, etc., recorded in Miscellaneous Department Record *Book, page* 134.

Remarks:

John Goodnow

[SEAL.] *Consul-General of the United States.*

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., 190.....

No. 4

CONSULAR BUREAU. RECEIVED

Consulate-General of the United States,

INDEX BUREAU RECD. OCT 11 '01 DEPT OF STATE

Shanghai, Sept. 7 1901. 190

Mr. Goodnow

To the Department of State

Note + a/c acknowledged by form October 12, 1901

Subject:

Death of Aelius M. Bisbee.

Abstract of Contents

Enclosing report in duplicate.

Consular Bureau OCT 11 1901

No. 4

Consulate-General of the United States,

Shanghai, Sept. 7 1901. , 190 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

I hanfd you herewith report (in duplicate) of the death of Aelius Marcellus Bisbee.

I am, Sir, your obedient servant.

John Goodnow

Consul General.

(Form No. 192.)

CONSULAR BUREAU
NOTED

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Sept. 7 1901. 190

Name: Aelius Marcellus Bisbee.

Native or naturalized: Native.

Date of death: Sept. 7 1901., Shanghai.

Place of death: Central Hotel, Shanghai.

Cause of death: Dilation of the Aorta.

Disposition of remains: cremated .

Local law as to disinterring remains in case it is desired to bring them home:

His will directs that his ashes be sent home.

Disposition of effects: by will filed for probate.

Address of family: c/o Fidelity Ins.Trust & Safe Deposit Co. of Philadelphia Pa.

Family notified: Yes in above care.

Accompanied by relatives: no.

This information, inventory, accounts, etc., recorded in Department Miscellaneous *Record Book, page* 135.

Remarks: Under the will the above named Trust Co. is appointed sole Trustee for the Estate which consists of property here and in America. I will probably appoint an Administrator here to carry out the provisions of the will so far as the property here is concerned and will write the Trust Co. for instructions.

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No.....in despatch

No.....

....., 190.....

DUPLICATE

CONSULAR BUREAU
NOTED.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Sept. 7 1901. 190

Name: Aslius Marcellus Bisbee.

Native or naturalized: native.

Date of death: Sept. 7 1901.

Place of death: Central Hotel, Shanghai.

Cause of death: Dilation of the Aorta.

Disposition of remains: cremated.

Local law as to disinterring remains in case it is desired to bring them home:

His will diracts that his ashes be sent home.

Disposition of effects: by will filed for probate.

Address of family: c/o Fidelity Ins. Trust & Safe Deposit Co. of Philadelphia, Pa.

Family notified: Yes in above case.

Accompanied by relatives: no.

This information, inventory, accounts, etc., recorded in Department ~~Register~~ *Record Book, page* 135.

Remarks: Under the will the above named Trust Co. is appointed sole Trustee for the Estate which consists of property here and in America. I will probably appoint an Administrator here to carry out the provisions of the will so far as the property here is concerned and will write the Trust Co. for instructions.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No.....in despatch

No.....

....., 190.....

No. 5

CONSULAR BUREAU. NOTED

Consulate-General of the United States,

Shanghai, Sept. 10 1901. 190

Mr. Goodnow

To the Department of State

Subject:

Death of M. H. Cook.

Note rec'd
Acknowledged by form
October 12, 1901

Abstract of Contents

Enclosing report in duplicate.

Consular Bureau
OCT 11 1901

No. 4

Consulate-General of the United States,

Shanghai, Sept. 16, 1901. , 190 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith report(in duplicate) of the death of Matthew Howard Cook.

I am, Sir ,your obedient servant,

John Goodnow

Consul General

(FORM NO. 192.)

Report of the Death of an American Citizen

CONSULAR BUREAU. NOTED.

Consular Service, U. S. A.

Shanghai China Sept 10 1901. 190

Name: Matthew Howard Cook.

Native or naturalized: native.

Date of death: Sept. 10 1901.

Place of death: General Hospital, Shanghai.

Cause of death: senile gangrene.

Disposition of remains: Pahsienjao Cemetery, Shanghai.

Local law as to disinterring remains in case it is desired to bring them home:

no law.

Disposition of effects: by will filed here for probate.

Address of family: H. B. and W.H.Cook and Ada B. Dent, SanFrancisco.

Family notified: yes.

Accompanied by relatives: no.

This information, inventory, accounts, etc., recorded in Department *Record Book, page* 136.

Remarks: The will gives several local bequests and divides the remainder equally between above named brothers and sister and two nephews ,M.H.Cook, SanFrancisco and A.H.Cook of NewYork City.

John Goodnow

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

DUPLICATE

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, China, Sept. 10 1901. 190

Name: Matthew Howard Cook.

Native or naturalized: native.

Date of death: Sept. 10 1901.

Place of death: General Hospital, Shanghai.

Cause of death: senile gangrene.

Disposition of remains: Pahsienjao Cemetery, Shanghai.

Local law as to disinterring remains in case it is desired to bring them home:

no law.

Disposition of effects: by will filed here for probate.

Address of family: H.B. and W.H.Cook and Ada B.Dent, San Francisco.

Family notified: Yes.

Accompanied by relatives: no.

This information, inventory, accounts, etc., recorded in Department ~~Miscellaneous~~ *Record Book, page* 136.

Remarks: The will gives several local bequests and divides the remainder equally between above named brothers and sisters and two nephews, M.H.Cook, San Francisco and A.H.Cook of NewYork City.

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

No. 407.

Consulate-General of the United States,

Shanghai, Sept. 13 1901. 190

Mr. Goodnow

To the Department of State

Note-Book

Subject:

Death of Charles F. Luther.

Acknowledged October 12. 1901.
(See this # of June 3, 1901 to which this notes.)

Abstract of Contents

Reply to Department's 277. Enclosing duplicate report.

Consular Bureau
OCT 11 1901

No. 407.

Consulate-General of the United States,

Shanghai, Sept 13 1901. , 190 .

Honorable David J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

Replying to your 277, I enclose herewith duplicate report on the death of Charles F. Luther.

As I explained in my #387, these report with some other work of the Consulate got behind while I was at home on my vacation; and that I forwarded them as soon as possible after my return.

Mr. Luther had a Chinese "housekeeper" and of her I inadvertently used the word "widow"; as that term is commonly applied here to these ladies who hold an anomalous position.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Duplicate.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai May 29 1901. 190

Name: Charles F. Luther.

Native or naturalized: native.

Date of death: March 9 1901.

Place of death: Shanghai China.

Cause of death: cerebral hemorrhage.

Disposition of remains: interred in B. W. Road cemetery.

Local law as to disinterring remains in case it is desired to bring them home: can be done.

Disposition of effects: devised by will.

Address of family: Widow (#) here. Sister Mrs E Blossom Fairhaven Mass. niece. Brother E. J. Luther Auburn N. Y.

Family notified: yes

Accompanied by relatives: no

This information, inventory, accounts, etc., recorded in Department *Miscellaneous Record Book, page* 82.

Remarks: Held Pension certificate #18902 dated Dec. 16 1892.

(#) I used the word widow inadvertently. He had a Chinese housekeeper to whom he left the bulk of his small property. These "housekeepers" are often called "widows" after the death of their foreign protectors.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

Confidential

Cons Bureau

No. 405

CONFIDENTIAL.

Dep't Bureau

Consulate-General of the United States,

Shanghai Sept 13, 1901

Mr. Goodnow

To the Department of State

Spl. ASST. SECRETARY
OCT 12 1901

Subject:

Conservancy of the Whangpoo River,

Abstract of Contents Telegram to Shanghai Oct. 15, 1901.

Ans
Oct-17
1901

Consular Bureau
OCT16 1901

Confidential

CONFIDENTIAL.

No. 408.

Consulate-General of the United States,

Shanghai, Sept. 13 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to call your attention to the addition to the Protocal with regard to the Conservancy of the Whangpoo River. Thsi document provides for a Board of 16 members.This will be composed of

1- The Taotai; The Commissioner of Customs;and one named by the Chinese Gov't as having more than 200,000 tons shipping at this Port.

2- Two elected by the Chamber of Commerce; two elected by the Shipping Companies; one member of the Council of the Cosmopolitan Settlement. These 5 will be British.

3- Two elected by the Consuls; one each named by Great Britain, Japan, Germany, France and the United States; one chosen by the French Municipality. These will be officials.

You will readily see that theChinese will hold the balance of power between the British and the Continentals on this Board. Already the British say that the Germans must not control this Board, with its great patronage and control of money. The Continentals are as positive against the British. The Chinese are saying very little; but the Viceroy sent the Taotai to me 3 days ago hoping that between the two factions that an American would be chosen as President of the Board, and kindly suggested that

both as U.S.Consul General and as Senior Consul I wo would be the proper man and promised his full support. Several of the Consular Body have suggested the same thing. I am personally not anxious, as i t would mean a lot of extra work. But I do know that it would be greatly for our prestige for me to hold this place. Also it would ensure our machinery men and contractors the fair show which they would not get should any representative of another nationality be President of this Board. I told the Taotai that I could not take such a place except with your full consent and as practically the unanimous choice of the Board.As a matter of opinion, i am inclined to believe that I will at least have the opportunity of refusing the place.

I have written you thus fully, so as to call your attention to the matter. This Board will have charge of the pilots; of the entire harbor; of the water police and the lights; and of the streams for two miles from their outlets into the Whanghao. It will levy taxes and will expend about $500,000 per annum.It has practically sovereign rights within a region 16 miles long and 4 miles wide, subject only to the consent of the Consuls to the rules and regulations adopted.

I would ask that I be made the appointee of the United States under the plan. In that way only can I take proper care of the interests of Americans in this matter. I would ask that you wire me in this matter.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Yours truly

JN.

Mr Smith

John Goodnow, Esquire,
Consul General of the United States,
Shanghai, China.

Sir:

I have to acknowledge the receipt of your confidential despatch of the 13th ultimo No.408, relative to the conservancy of the Whangpoo River and the desire of the Chinese officials "that an American would be chosen as President of the Board" and suggesting that you, as Consul General and senior Consular officer, would be acceptable for the trust, provided, of course, your Government should designate you as its representative on the proposed Board which you describe and which is to be composed of sixteen members.

The Department has given careful thought to your despatch and hereby designates you as the representative of the Government of the United States in the premises. It is of the opinion that if you should be chosen President of the Board, you should make an effort to serve, even though it would entail, as it naturally would, a large amount of extra work. If, however, the Whangpoo Presidency should be found to interfere with your strictly consular functions, that feature of the case can be dealt with later, if need be. I accordingly telegraphed you as follows:

"Four hundred eight received. Designated representative. If chosen President may serve provided duties do not interfere with consular functions".

I am, Sir,
Your obedient servant,

Third Assistant Secretary.

October 17, 1901.

...ow, Esquire,
...ul General of the United States,
Shanghai, China.

...e to acknowledge the receipt of your confidential despatch
...th ultimo No.439, relative to the conservancy of the Yang-
...and the desire of the Chinese officials "that an American
...chosen as President of the Board" and suggesting that you,
... General and senior Consular officer, would be acceptable
...ent, provided, of course, your Government should designate
... representative on the proposed Board which you describe
... is to be composed of sixteen members.

...e Department has given careful thought to your despatch and
...ignates you as the representative of the Government of the
...ates in the premises. It is of the opinion that if you
...chosen President of the Board, you should make an effort to
... though it would entail, as it naturally would, a large amount
...work. If, however, the Shanghai Presidency should be found
...e with your strictly consular functions, that feature of
...can be dealt with later, if need be. I accordingly telegra-
... follows:

...ur instruct eight received. Designated representative.
... President may serve provided duties do not interfere with
...unctions".

... I am, Sir,

Your obedient servant,

...ted Assistant Secretary.

Fil

Answer

No. 409.

Consulate-General of the United States,

Shanghai Sept. 20 1901. 190

Mr. Goodnow

To the Department of State

Roll as appropriate

Answered Oct. 21, 1901

Subject:

Death of President McKinley.

Abstract of Contents

Flag at half mast. Memorial services.

DIPLOMATIC BUREAU RECD OCT 19 1901 DEPT OF STATE

Consular Bureau. OCT 19 1901

Death of President McKinley.

No. 409 .

Consulate-General of the United States,

Shanghai, Sept. 20 1901. , 190 .

Honorable T. W. Crid ler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that I received the news of President McKinley's death at 8 p.m. Sept. 14. I put the flag of this Consulate at half-mast on the following morning. All the Consulates in Shanghai half-masted their flags for three days. On Sept. 17th I hald a Memorial Service at which all the services of the various gdvernments represented here were present and about 20 Chinese officials attended. The address was made by Bishop D. H. Moore of the M. E. Church. The same evening the Masonic bodies held a Lodge of Sorrow.

I sent out a request that all Americans observe the day of the funeral as a day of mourning . They, with many British and German firms, closed their places of business accordingly. A service in memory was held at the American Episcopal Church.

The flag at this Consulate will remain at half-mast until receipt of instructions from you.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

TELEGRAM RECEIVED

dated Sept 30

dated Sept 30

From Shanghai

Sept 30, 1901.

Received 10:36 A M.

2 Mr

DEPARTMENT OF STATE

SEP 30 1901

10 36 AM 1901

Sec State

CLERK'S OFFICE

(Asha J. (D.C.)

continued Oct. 1. 1901.

Swiss Citizen accused

Embezzlement demands

American Jurisdiction. to (No?)

Swiss Consul in China

instruct

Goodnow

No. 410

U.S. CONSULATE
RECD
NOV 4 '01
DEPARTMENT OF STATE

Consulate-General of the United States,

Shanghai Sept 30, 1901

Mr. Goodnow

To the Department of State

Acknowledged by form
November 6, 1901.

Ack'd Note

Subject:

R. Loulmin

Abstract of Contents

Enclosing $197 in duplicate

(See Circ No. 394 of July 2, 1901)

CONSULAR BUREAU.
NOTED.

Consular Bureau
NOV 4 1901

No. 410

Consulate-General of the United States,

Shanghai, Sept. 30th, 1901. , 190 .

Honorable T. W. Cridler:

Assistant Secretary of State,

Washington, D. C.

Sir:

As instructed in you #285 I hand you herewith in duplicate form No. 192 re Richard Toummin.

I am, Sir, Your obedient servant,

John Goodnow

(2 encs.) Consul General.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, July 1st 1901

Name: Richard Toulmin

Native or naturalized: Native

Date of death: July 1st, 1901

Place of death: Shanghai General Hospital

Cause of death: abscess of Liver

Disposition of remains: ~~Interred in Bubbling Well Cemetery~~

Local law as to disinterring remains in case it is desired to bring them home:

No local law on the subject.

Disposition of effects: No effects.

Address of family: unknown. Claimed no living relatives.

Family notified: #

Accompanied by relatives: #

This information, inventory, accounts, etc., recorded in ~~*Miscellaneous*~~ Department *Record Book, page* 141

Remarks: This man had been in prison almost three years. for the last two years he had been dependent for clothing upon me personally.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

Duplicate

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, July 1st, 1901

Name: Richard Toulmin

Native or naturalized: Native.

Date of death: July 1st, 1901.

Place of death: Shanghai general Hospital.

Cause of death: Abscess of liver.

Disposition of remains: Interred in Bubbling Well Cemetery.

Local law as to disinterring remains in case it is desired to bring them home:

No local law on the subject.

Disposition of effects: No effects.

Address of family: Unknown. Claimed no living relatives.

Family notified: #

Accompanied by relatives: #

This information, inventory, accounts, etc., recorded in Department *Miscellaneous Record Book, page* 141

Remarks: This man had been in prison almost three years. For the last two years he had been dependent for clothing upon me personally.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

No. 4

CONSULAR BUREAU.
RECEIVED.
NOV 4 1901

Consulate-General of the United States,

Shanghai, Oct. 2nd, 190 1

Mr. Goodnow,

To the Department of State

Acknowledged by form
November 6 1901.

Subject:

Death of Peter Conners.

Ack'd Oct 8

Abstract of Contents

Duplicate form No. 192 enclosed.

Consular Bureau
NOV 4 1901

No. 4

Consulate-General of the United States,

Shanghai, Oct. 2nd, , 190 1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith in duplicate report of the death of a man named Peter Connors supposed to be an American citizen.

I am, Sir, your obedient servant,

John Goodnow

(2 encs.) Consul General.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Oct. 2nd, 1901 190

Name: Peter Conners

Native or naturalized: Unknown

Date of death: Sept. 29th, 1901

Place of death: General Hospital, Shanghai.

Cause of death: Dysentery.

Disposition of remains: Buried in Bubbling Well Road Cemetery.

Local law as to disinterring remains in case it is desired to bring them home:

No local law on the subject.

Disposition of effects: The clothing he wore when he entered the hospital was so filthy it was burned. He had no other effects.

Address of family: Unknown.

Family notified: No.

Accompanied by relatives: No.

This information, inventory, accounts, etc., recorded in Department *Miscellaneous Record*

Book, page 144

Remarks: The man claimed to be a deserter from the U. S. S. Monocacy and I have written to the Commander of that ship asking information about him. He was buried by the American Charity fund.

[SEAL.]

John Goodnow

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

Duplicate.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Oct. 2nd, 1901

Name: Peter Conners

Native or naturalized: unknown

Date of death: Sept. 29th, 1901

Place of death: General Hospital, Shanghai.

Cause of death: Dysentery.

Disposition of remains: Buried in Bubbling Well Road Cemetery.

Local law as to disinterring remains in case it is desired to bring them home:

No local law on the subject.

Disposition of effects: The clothing he wore when he entered the hospital was so filthy it was burned. He had no other effects.

Address of family: Unknown.

Family notified: No.

Accompanied by relatives: No.

This information, inventory, accounts, etc., recorded in Department *Miscellaneous* Record *Book, page* 144

Remarks: The man claimed to be a deserter from the U. S. S. Monocacy. I have written to the Commander of that ship asking information about him. He was buried by the American Charity fund.

John Goodnow

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

No. 411

Consulate-General of the United States,

Shanghai, Oct. 2nd, 1901 . 190

Mr. Goodnow,

To the Department of State

Ack by ltr Nov 7-1901

Subject:

to your Jurisdiction over ~~Swiss.~~ citizens of Swartz

Abstract of Contents

Confirming my telegram Sept. 30th,

Confirming Department's telegram Sept. 30th,

Narrative of case.

No. 411

Consulate-General of the United States,

Shanghai, Oct. 2nd, , 190 .1

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm the following telegram:-

"Secstate, Washington. Swiss citizen accused embezzlement demands American Jurisdicition. No Swiss Consul in China. Instruct. Goodnow."

"American Consul Shanghai. Swiss citizens not justiciable in American Consular Courts under our Treaties with China. Can only extend good offices. Cridler."

In this matter a complaint was brought against one Frederick Ingolds, a Swiss citizen, formerly a resident of California where he had declared his intentions of becoming an American citizen, charging embezzlement. Ingolds had been a cashier for the firm of Blake & Son and acknowledged his guilt. He at first claimed American citizenship, which I could not acknowledge as he had only taken out his first papers. Then he claimed American jurisdiction. I consulted Mr. Rockhill and Mr. Squiers who were passing through here at the time and both thought that u nder our Treaties with Switzerland ~~that~~ the man could claim to be tried by either American, German or French Courts. Both French and German Consuls expressed willingness to take him should he claim their jurisdiction. I kept him here for about two weeks, at his written request, as he hoped to obt ain the money to repay Blake & Son, an American firm.

On receipt of your telegram yesterday I notified the man and Blake & Son that he must choose another jurisdiction He chose to go to the German Court. Blake & Son have now filed complaint against him there and he has now been rearrested and transferred to the custody of that Court.

No expense has come upon the United States in this matter, as his friends have paid for his food while in custody here.

I am, Sir, your obedient servant,

John Goodnow
Consul General.

Mex 46.4/10

TELEGRAM RECEIVED.

T OF STATE
26 AM 1901
RECEIVED OCT 3 '02 STATE DEPT.
CLERK'S OFFICE

7:40 am.

3rd. ASST. SECRETARY. OCT 3 1901
ARR'D OCT 3 1901

Shanghai, October 3, 1901.

Cridler,

Washington.

Dollar rate.

Geednew.

Confirmed. OCT 4 1901

exican Forty-six four tenths,

T OF STATE
0 26 AM 1901
CLERK'S OFFICE

CONSULAR BUREAU.
NOTED.

RECEIVED
NOV 4 1901
DEPT OF STATE

No. 4

Consulate-General of the United States,

Shanghai, Oct. 5th, 1901 , 189 .

Mr. Goodnow,

To the Department of State.

Acknowledged by form Nov 6, 1901.

Ack Dupl

Subject:

Death C. H. McCaslin.

Abstract of Contents.

Enclosing report in duplicate.

Consular Bureau.
NOV 4 1901

No. #

Consulate-General of the United States,

Shanghai, Oct. 5th, 1901 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith duplicate report of the death of C. H. McCaslin.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

(2 encs.)

(FORM NO. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Oct. 1st, 1901

Name: Charles H. McCaslin

Native or naturalized: Native.

Date of death: September 22nd, 1901

Place of death: Shanghai General Hospital

Cause of death: Cerebral apoplexy.

Disposition of remains Buried in Pahsienjiao Cemetery

Local law as to disinterring remains in case it is desired to bring them home:

None.

Disposition of effects: By will

Address of family: Wife at Tolcarnie, Newlyn, Penzance, Cornwall, Eng.

Family notified: Yes.

Accompanied by relatives: No.

This information, inventory, accounts, etc., recorded in Department *Miscellaneous Record Book, page* 152

Remarks:

John Goodnow

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No.:.....

....., 190.....

Duplicate.

(Form No. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai, Oct. 1st 1901

Name: Charles H. McCaslin

Native or naturalized: Native.

Date of death: September 22nd, 1901

Place of death: Shanghai General Hospital.

Cause of death: Cerebral apoplexy

Disposition of remains: Buried in Pahsienjiao Cemetery.

Local law as to disinterring remains in case it is desired to bring them home:

None.

Disposition of effects: By will

Address of family: Wife at Tolcarnie, Newlyn, Penzance, Cornwall, Eng.

Family notified: Yes.

Accompanied by relatives: No.

This information, inventory, accounts, etc., recorded in Department ~~Miscellaneous~~ *Record Book, page* 152

Remarks:

John Goodnow

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No.....in despatch

No.....

....., 190.....

DEPT OF STATE
NOV
9
1901
2ND ASST SECRETARY

CONSULAR BUREAU
Ack: Subject under consideration with probability of early determination.
ABA

No. 412

Consulate-General of the United States,

Shanghai, Oct. 5th, 1901 , 189 .

Mr. Goodnow,

To the Department of State.

Treaty Nov. 23

Ans Nov 11/01 FILE

Subject:

Commission of Bankers.

Abstract of Contents.

Nominating H. & S. Bank as member for the United States of the Bankers Commission.

Consular Bureau
NOV 4 1901

No. 412

Consulate-General of the United States,

Shanghai, Oct. 5th, 1901, 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Mr. Conger has asked me to "recommend to the Department of State a suitable and desirable bank or banker to represent the United States on the Commission of Bankers provided for under paragraph B of Article VI of the Peace Protocol."

I would therefore recommend the appointment of the Hongkong and Shanghai Banking Corporation at Shanghai as such representative.

There is no American Bank here.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 413

Consulate-General of the United States,

Shanghai Oct 5, 1901.

Mr. Goodnow

To the Department of State.

Ack by tour Nov 7/01

Ask file

Subject:

Consulate Course

Abstract of Contents.

Enclosing 2 copies -

Consular Bureau
NOV 4 1901

No. 413

Consulate-General of the United States,

Shanghai Oct 5 1905.

Honorable T W Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

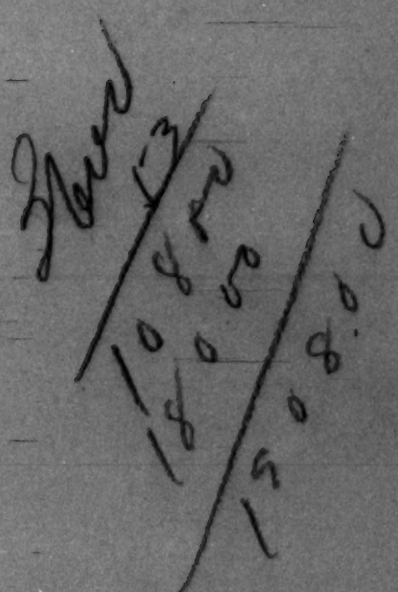
Herewith 2 copies license B 36 Whangpoo Road. You will notice that this license is a duplicate of the license of 12 Kinkiang Road.

I am, Sir, your obdt servant

John Goodnow

C G USA

Enclosures



Enclosure in No 403 Shanghai Ltr

Articles of Agreement made this first day of August in the year of our Lord one thousand nine hundred and one Between Douglas Jones of No. 9 Royal Exchange in the City of London hereinafter called the Lessor of the one part And John Goodnow Consul General for the United States of America at Shanghai in the Empire of China hereinafter called the Lessee of the other part Witnesseth that the said Lessor agrees to let, and the said Lessee agrees to take the Consular Offices situate in and known as No. 36 Nanking Road in the (so called) American Settlement at Shanghai aforesaid erected on part of the Lot of Land described and registered in the books of the United States Consulate General at Shanghai aforesaid as Lot No 406 for the term of ten years commencing on the first day of August one thousand nine hundred and one and terminating on the Thirty-first day of July one thousand nine hundred and eleven but terminable on one years notice in writing being given by the Consul or Consul-General for the United States for the time being in Shanghai to the said Lessor or his duly authorized agent, at the annual rental of three thousand six hundred taels Sycee Shanghai Currency to be paid to the said Lessor quarterly as accrued without any deduction whatsoever. The assessed Taxes on the Land are to be paid by the said Lessor, but all other Taxes of whatsoever

nature

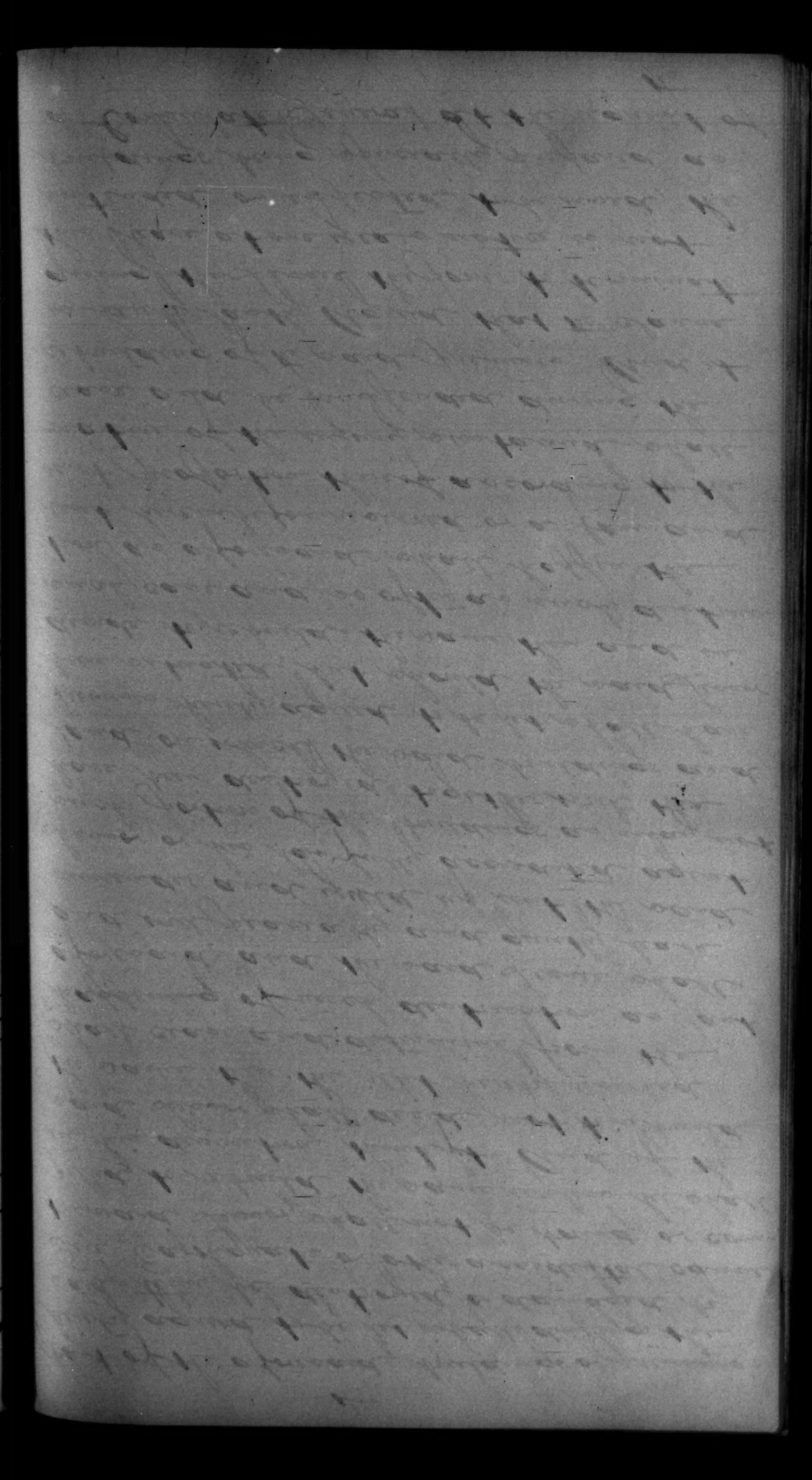
nature or kind are to be paid by the said Lessee And the said Lessee shall not make any alteration in the external plan or elevation, or in the internal arrangement of the said buildings and premises without a written license under the hand of the said Lessor or his lawfully accredited agent or surveyor first had and obtained and the said Lessor or his lawfully accredited agent or surveyor and workmen may at all reasonable times during the said term enter upon the said premises to inspect the same and during the continuance of the said term (except in the case of serious damage hereafter provided for) the outside walls and roofs shall be kept in good repair by the said Lessee and the said Lessee shall not commit or suffer any waste spoil or destruction of the said buildings or premises or any part thereof or do or suffer to be done therein or thereon any act matter or thing to the annoyance damage or disturbance of the said Lessor or offensive to the neighbours or store or suffer to be stored in or upon the said buildings and premises any combustible or hazardous articles whereby the Insurance of the said buildings and premises may be invalidated And it is further Agreed that at the end of ten years or other determination of this agreement the said Lessee will peaceably and quietly leave surrender and yield up unto the said Lessor or his lawfully accredited agent.

agent the premises hereby agreed to be let and all fixtures fastenings matters and things thereto in anywise belonging or appertaining in a good proper and tenantable condition damage by fire or other unavoidable accident alone excepted And it is further Agreed that if the rent hereby reserved shall be in arrear or unpaid by the space of 30 days next over or after the due date, or on breach non-observance or non performance of any of the stipulations or agreements on the part of the Lessee herein contained, it shall be lawful for the said Lessor or his lawfully accredited agent into and upon the said buildings and premises hereby agreed to be let or any part thereof in the name of the whole peaceably and quietly to re-enter, and the same to have again retain and possess and enjoy as if this agreement had never been made and the said Lessee and all other tenants and occupiers of the said premises thereout to expel and put out anything herein contained to the contrary notwithstanding Provided Always that the power of re-entry hereinbefore given shall not be construed to prevent or hinder the said Lessor or his lawfully accredited agent from re-covering or enforcing payment of the said rent by any means whereby the same is lawfully recoverable and the said Lessee shall not sublet the aforesaid buildings to any person or persons without the consent in writing first obtained from the said Lessor or his lawfully accredited agent And it is further Agreed that in case any

part

part of the aforesaid buildings or premises hereby agreed to be let shall during the said term be destroyed or damaged by Fire Earthquake or other accidental cause the said Lessor shall not be bound or compelled to rebuild the same unless he shall in his discretion think fit. And if the said Lessor shall decide not to rebuild the same then the rent hereby reserved shall cease and determine from the happening of such destruction as last aforesaid and the said Lessee shall and will peaceably and quietly leave surrender and yield up unto the said Lessor or his lawfully accredited agent such portion of the buildings as may not have been destroyed together with the land on which the said buildings and premises hereby agreed to be let shall have been situated, but should the said Lessor decide to rebuild the same then and in such case and so often as such destruction as aforesaid shall happen the rent hereinbefore reserved or a fair and just proportion thereof according to the nature of the injury sustained shall cease and be suspended during the rebuilding of the said premises. And it is hereby lastly Agreed that the clause giving the Lessee the power to terminate this lease at one years notice is not intended or expected to be used, the buildings being specially prepared as a Consulate General at the request of

the



the Consul General for the United States upon his assurance that the United States Government will deprecate any changes being made by a future Consul or Consul General and this assurance that the arrangement may be considered a permanent one the clause being only inserted in consequence of the United States Government not having given any power to the Consul General to enter a lease for a long term of years.

In Witness Whereof the said Lessor and the said Lessee have hereunto set their hands this day and year first before written.

Signed Sealed and delivered by the above named Douglas Jones by his Attorney Wards Probst & Co in the presence of } (Signed) Douglas Jones by his attorneys Wards Probst & Co

Signed Sealed and delivered by the above named John Goodwin in the presence of } (Signed) John Goodwin Consul General U.S.A.

Enclosure in No 913 from Shanghai -

Copy

Articles of Agreement made this first day of August in the year of our Lord one thousand nine hundred and one Between Douglas Jones of No. 9. Royal Exchange in the City of London hereinafter called the Lessor of the one part and John Goodnow Consul-General for the United States of America at Shanghai in the Empire of China hereinafter called the Lessee of the other part. Witnesseth that the said Lessor agrees to let and the said Lessee agrees to take the Consular Offices situate in and known as No. 36 Nhangpoo Road in the (so called) American Settlement at Shanghai aforesaid erected on part of the Lot of Land described and registered in the books of the United States Consulate-General at Shanghai aforesaid as Lot No. 406 for the term of ten years commencing on the first day of August one thousand nine hundred and one and terminating on the thirty-first day of July one thousand nine hundred and eleven but terminable on one years notice in writing being given by the Consul or Consul-General for the United States for the time being in Shanghai to the said Lessor or his duly authorized agent, at the annual rental of three thousand six hundred taels Sycee Shanghai Currency to be paid to the said

Lessor.

Lessor quarterly as accrued without any deduction whatsoever. The assessed Taxes on the Land are to be paid by the said Lessor but all other Taxes of whatsoever nature or kind are to be paid by the said Lessee. And the said Lessee shall not make any alteration in the external plan or elevation, or in the internal arrangement of said buildings and premises without a written license under the hand of the said Lessor or his lawfully accredited agent or surveyor first had and obtained and the said Lessor or his lawfully accredited agent or surveyor and workmen may at all reasonable times during the said term enter upon the said premises to inspect the same and during the continuance of the said term (except in the case of serious damage hereafter provided for) the outside walls and roofs shall be kept in good repair by the said Lessee and the said Lessee shall not commit or suffer any waste spoil or destruction of the said buildings or premises or any part thereof or do or suffer to be done therein or thereon any act matter or thing to the annoyance damage or disturbance of the said Lessor or offensive to the neighbours or store or suffer to be stored in or upon the said buildings and

Premises

premises any combustible or hazardous articles whereby the Insurance of the said buildings and premises may be invalidated. And it is further Agreed that at the end of ten years or other determination of this agreement the said Lessee will peaceably and quietly leave surrender and yield up unto the said Lessor or his lawfully accredited agent the premises hereby agreed to be let and all fixtures fastenings matters and things thereto in anywise belonging or appertaining in a good proper and tenantable condition damage by Fire or other unavoidable accident alone expected. And it is further agreed that if the rent hereby reserved shall be in arrear or unpaid by the space of 30 days next over or after the due date, or on breach non-observance or non-performance of any of the stipulations or agreements on the part of the Lessee herein contained it shall be lawful for the said Lessor or his lawfully accredited agent into and upon the said buildings and premises hereby agreed to be let or any part thereof in the name of the whole peaceably and quietly to re-enter, and the same to have again retain and possess and enjoy, as if this agreement had never

never been made and the said Lessee and all other tenants and occupiers of the said premises thereout to expel and put out anything herein contained to the contrary notwithstanding. Provided Always that the power of re-entry hereinbefore given shall not be construed to prevent or hinder the said Lessor or his lawfully accredited agent from re-covering or enforcing payment of the said rent by any means whereby the same is lawfully recoverable and the said Lessee shall not sublet the aforesaid buildings to any person or persons without the consent in writing first obtained from the said Lessor or his lawfully accredited agent. And it is Further Agreed that in case any part of the aforesaid buildings or premises hereby agreed to be let shall during the said term be destroyed or damaged by Fire Earthquake or other accidental cause the said Lessor shall not be bound or compelled to re-build the same unless he shall in his discretion think fit. And if the said Lessor shall decide not to re-build the same then the rent hereby reserved shall cease and determine from the happening of such destruction as last aforesaid and.

and the said Lessee shall and will peaceably and quietly leave surrender and yield up unto the said lessor or his lawfully accredited agent such portion of the buildings as may not have been destroyed together with the land on which the said buildings and premises hereby agreed to be let shall have been situated, but should the said Lessor decide to rebuild the same then and in such case and so often as such destruction as aforesaid shall happen the rent herein before reserved or a fair and just proportion thereof according to the nature of the injury sustained shall cease and be suspended during the re-building of the said premises. And it is hereby lastly Agreed that the clause giving the Lessee the power to terminate this lease at one years notice is not intended or expected to be used, the buildings being specially prepared as a Consulate General at the request of the Consul General for the United States upon his assurance that the United States Government will deprecate any changes being made by a future Consul or Consul-General and his assurance that the arrangement may be considered a permanent one the clause being only inserted in

consequence.

consequence of the United States Government not having given any power to the Consul General to enter a lease for a long term of years.

In Witness Whereof the said Lessor and the said Lessee have hereunto set their hands this day and year first before written.

Signed Sealed and delivered by the above named Douglas Jones by his Attorney Hand, Probt. C in the presence of

[signed] Douglas Jones by his attorney Hand Probt C

Signed Sealed and delivered by the above named John Goodnow in the presence of

[signed] John Goodnow

RECEIVED NOV 12 '01 DEPT OF STATE

DIPLOMATIC BUREAU DEC 13 1901

No. 414

Consulate-General of the United States,

Shanghai Oct 14 1901.

Mr. Goodnow ~~Copy to China~~

To the Department of State.

AMS DEC 12 1901

Copies to China 5
To Interior Dept. 18
Dec. 17/1901.
C.

Subject:

Protection of trademarks.

Abstract of Contents.

Enclosing proclamation (translation)
of proclamation Viceroy Chang Chihtung.

Consular Bureau NOV 12 1901

INDEX BUREAU APR 4 1903 FILED

Copy

297.

December 12,1901.

John Goodnow, Esquire,
Consul General of the United States,
Shanghai.

Sir:

I have to acknowledge the receipt of your No.414 of October 14,1901, reporting that the Customs Taotai at Hankau on the order of the Viceroy has issued a proclamation protecting certain trade-marks of the American Tobacco Company in his provinces. You state that this is the second such proclamation issued by a Viceroy, and suggest that these precedents would make the negotiation of a general trade-mark convention comparatively easy.

The Department is informed that the British Government is desirous of including a trade-mark convention in the subject to be discussed with the Chinese Government under Article XI of the Protocol (Revision of Treaties of Commerce and Navigation). NO reason is perceived for objection by this Government to the beginning of similar negotiations which may prove beneficial to foreign trade.

Copies of your despatch and this reply will be sent to the Minister at Pekin, for his information.

I am, Sir,
Your obedient servant,

David J. Hill.

Assistant Secretary.

December 14,1901.

John Goodnow, Esquire,

Consul General of the United States,

Shanghai.

Sir:

I have to acknowledge the receipt of your No.414 of October 14,1901, reporting that the Customs Taotai at Nanking on the order of the Viceroy has issued a proclamation protecting certain trademarks of the American Tobacco Company in his provinces. You state that this is the second such proclamation issued by a Viceroy,and suggest that these precedents would make the negotiation of a general trademark convention comparatively easy.

The Department is informed that the British Government is desirous of including a trade-mark convention in the subject to be discussed with the Chinese Government under Article XI of the Protocol (Revision of Treaties of Commerce and Navigation). No reason is perceived for objection by this Government to the becoming of similar negotiations which may prove beneficial to foreign trade.

Copies of your despatch and this reply will be sent to the Minister at Pekin,for his information.

I am, Sir,

Your obedient servant,

Assistant Secretary.

No. 414.

Consulate-General of the United States,

Shanghai, Oct. 14 1901. , 189 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith a copy (translation) of a letter from the Customs Tactai at Hankow, in which he notifies me that he has issued a proclamation on the order of Viceroy Chang Chi-tung protecting certain trademarkd of the American Tobacco Co. in his provinces.

This is the second such proclamation issued by a Viceroy, the other being about three years ago at my request for the Standard Oil Co. by the Viceroy at Canton.

These precedents make the negotiation of a general copyright treaty comparatively easy; and certainly few trade questions are any more pressing than is the matter of protection of American copy rights in China.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Copy

CONSULAR SERVICE, U. S. A.

Enclosure in #414 from

U. S. Consulate-General

Shanghai, China, Oct, 14th 190

H.R.Tsen, Customs Taotai at Hankow

to

The Hon. J. Goodnow, Consul General U.S.A.

re Viceroy's proclamation protecting trademark.

On the 8th of the 8th moon, 27th year of Kwanghsu= Sept.20th, 1901. I had the honor to receive a communication from His Excellency "Chang chih-tung" in which he states

"I am in receipt of a letter from the Hon J. Goodnow, the American Consul General in which he says:

""I enclose herewith a letter from the American Tobacco ""Co. and hope that you can see your way clear to grant ""what they ask for.

""For several years the Taotai of Shanghai has issued "proclamations protecting trademarks, registered here. At ""Tientsin the same thing has been done. Also Viceroy "" "Tan" at my request three years ago, issued a prola- ""mation, forbidding any one to imitate certain trade- ""marks in the Provincesof "Kwangsi and Kwangtung". ""With these precedents I feel more bold to ask you to ""protect in the same way this brand in your Provinces. ""An established brandor trademark is valuable property; ""anyone putting an inferior imitation on the market de- ""preciates the value of this property and swindles the ""purchaser, who does not get the quality of goods he "thinks he is purchasing.""

"This communication having come to hand together with a "copy of a proclamation, I send this order to the Cus- "toms Taotai, that he may in consultation with the Cham- "ber of Commerce, issue at his earliest convenience, a "proclamation on a line with the one enclosed, instruc- "ting the people and strictly forbidding the manufacturer

"of imitations and the sale of such indiscriminately.
"Any one found disobeying, is liable to prosecution and
"punishment. The Taotai is further requested to have a
"copy made of the proclamation and to send it to the
"American Consul General at Shanghai; the original is
"to be returned to be put on file".

Having received the above instructions, I in conjunction with the Chamber of Commerce, have issued this proclamation, and having returned the original to His Excellency, the Viceroy, to be put on file. I feel in duty bound to forward a copy to you the Hon. Consul General, for your inspection. A necessary dispatch.

RECD NOV 17 '01 DEPT OF STATE

No. 415

Consulate-General of the United States,

Shanghai, Oct. 15th, 1901 , 189 .

Mr. Goodnow.

To the Department of State.

Subject:

American Exposition in Shanghai.

Abstract of Contents.

PRINTED IN ADVANCE SHEETS NO. 1196

Enclosing advertisement of its discontinuance.

Consular Bureau. NOV 12 1901

No. 415

Consulate-General of the United States,

Shanghai, Oct. 15th, 1901 , 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith (duplicate) copiesof the advertisement of the National Association of Manufacturers discontinuing the Exposition established by it at this place.

No other result except failure was ever considered possible by the community here as soon as the appointment of Victor L. Boeck as Manager was announced. I call your attention to my dispatch of Oct. 3rd containing the decision on the Sing Chong Jewel Co. vs the N. A. Of M. as indicative of the methods adopted by Boeck Bros. The slightest inquiry here with regard to Mr. Boeck's record here would have made his appointment and this failure impossible.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

THE AMERICAN WAREHOUSE IN SHANGHAI.

NOTICE is hereby given that the Exposition of American Manufacturers, maintained by the National Association of Manufacturers of the United States of America, and known as "The American Warehouse in Shanghai," is discontinued from this date.

NATIONAL ASSOCIATION OF MANUFACTURERS.

Rudolf Dolge.

Special Commissioner.

n 17oc 1845. Shanghai, 15th Oct., 1901.

DEPT OF STATE
NOV
23
1901
2ND ASST SECRETARY

CONSULAR BUREAU.
Ack.

No. 416

Consulate-General of the United States,

Shanghai, Oct. 19th, 1901 , 189 .

Mr. Goodnow.

To the Department of State.

FILE

Subject:

Bankers.

√ Do Treas. Nov. 23

Abstract of Contents.

Recommending Deutsch-Asiatische Bank equally with H. & S. Bank as representative of the United States on the Bankers Commission under the Peace protocol.

Consular Bureau.
NOV21 1901

No. 416

Consulate-General of the United States,

Shanghai, Oct. 19th, 1901.

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my 412 recommending the Hongkong and Shanghai Bank as the representative of the United States on the Commission of Bankers provided for under paragraph B of Article VI of the peace Protocol, I desire to equally recommend the Deutsch-Asiatische Bank of Shanghai. I do this at the written request of the German Consul general in Shanghai who says that this German Bank is represented by the National City Bank of New York City.

I am, Sir, Your obedient servant,

John Goodnow

Consul General.

RECD. NOV 21 '01 DEPT OF STATE

No. 417.

Consulate-General of the United States,

Shanghai, Oct: 22 1901: , 189 .

Mr. Goodnow

To the Department of State.

Subject:

Reply to Dep't's #288.

Abstract of Contents.

No coal now being mined in Shantung.

Consular Bureau. NOV 21 1901

No. 417 .

Consulate-General of the United States,

Shanghai, Oct. 22 1901. , 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir: I beg to reply to your #288, Sept 6 enclosing letter from the Navy Department, enclosing # 48696 from the Bureau of Equipment.

The tow n of Tsintau with its harbor has been built; the railway into Shantung is now under constru ction; two German mining companies have been organized;- all under the supposition that Shantung Province is rich in mineral wealth, especially in coal. Samples are shown which are equal to our best steaming coals. No mining, on a commercial scale, has as yet been done, and no commercial tests of the coal have yet been made.

The German Government has decided to keep coaling depots in the Pacific, instead of buying in the market where the ship needing coal may happen to be. These depots will for the present be stocked from home. They hope to get coal some time from Shantung to stock these depots.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

STATE & BUREAU
RECD.
NOV 21 '01
DEPT. OF STATE

No. 418

Consulate-General of the United States,

Shanghai Oct 22 1901.

Mr. Goodnow

To the Department of State.

Subject:

Sale of Gun Powder. Ack'd Nov 23' 01.

Abstract of Contents.

Asking instructions.

Consular Bureau.
NOV 21 1901

No. 418.

Consulate-General of the United States,

Shanghai, Oct. 22 1901. , 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

When we moved in July, I sold to the incoming tenantb the gas fixtures as they were without value to us in the new place. They were appraised and sold forTaels 55.75 for which I hold a draft on New York for gold $35.46. Please give me instructions as to what I shall do with this amount.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Seen by Secy

ASSISTANT SECRETARY,
Ack. and file.
NOV 23 1901

RECEIVED
NOV 19 1901
DEPARTMENT OF STATE

No. 419

Consulate-General of the United States,

Shanghai Oct. 26 1901, ~~189~~

Mr. Gordon

To the Department of State.

Ans Nov 26/01

Given to press director Asst. Secretary Nov. 27

Subject:

Monument to Wm McKinley in Shanghai.

Abstract of Contents.

To be erected by Chinese guilds.

Consular Bureau
NOV 20 1901

No. 419.

Consulate-General of the United States,

Shanghai, Oct. 26 1901. , 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to inform you that the guilds of silk, tea, and cotton piece goods, dealers have contributed, of their own initiative, to a fund to erect a monument to William McKinley in this City.

They say that they are doing this to show their appreciation of the man and of his attitude toward China.

I do not know of any other such action on the part of Chinese people toward any other than a Chinese.

This action shows plainly how the people of this region appreciate the American policy and the great American who has been President during the troubles in China.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU.

Acknowledge. Telegraph Con. Gen'l authorizing inspection of Con. Consulates in his jurisdiction. H. N. D. L.

No. 420

Consulate-General of the United States,

Shanghai Nov 3, 1901

Mr. Gardner

To the Department of State

3rd. ASST. SECRETARY. DEC 10 1901

Subject:

Consulate Inspection -

Telegram to Shanghai Dec. 11, 1901.

AMS'T DEC 12 1901

Abstract of Contents

Consular Bureau. DEC 11 1901

No. 420.

Consulate-General of the United States,

Shanghai, Nov. 3 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have been asked to open a Methodist Hospital at Kiukiang on Dec. 9 1901; and have accepted.

If it is the intehtion that I shall inspect the Consulates during this fiscal year, I can, while going to Kiukiang, inspect the Hankow and Chinkiang consulates with little extra expense.

I thoroughly believe that there should be a tour of the consulates every year. If I am to do this work, I should be allowed to work in the separate trips as I can with my other work.

If your desire me to go from Kiukiang to Hankow, please wire me on receipt of this.

I am, Sir, your obedient serv ant,

John Goodnow

Consul General.

ASSISTANT SECRETARY,
DEC 17 1901

No. 11

DEC 16 '01
DEPT. OF STATE

Consulate-General of the United States,
Shanghai Nov 15

, 190 ,

Mr. Goodnow

To the Department of State

9.De

Subject:
McNeill vs Dunning

Abstract of Contents

Case

No. 4

Consulate-General of the United States,

Shanghai Nov. 15 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith (in duplicate) the case of McNeill vs Dunning.

This case has excited much local comment, as such casas generally do.

I am, Sir, your obedient ser vant,

John Goodnow

Consul General.

U. S. Consular Court.

MUNICIPAL COUNCIL

v.

DUNNING & Co.

U.S. CONSULAR COURT.

Shanghai, 25th October.

Before the Hon. JOHN GOODNOW, Consul-General.

MUNICIPAL COUNCIL v. DUNNING AND CO.

Mr. D. McNeill appeared for the plaintiff and Mr. C. R. Holcomb for the defendants.

The following affidavit was sworn to in the above case: —

AFFIDAVIT.

Personally appeared Duncan McNeill who made oath that on Tuesday the 22nd day of October, 1901, Messrs. Dunning and Co. at Shanghai, China, did sell to one Arthur Moore, one bottle of whiskey without a licence, contrary to the provisions of Municipal Bye-Law No. XXXIV.

The following was the demurrer put in by the defendants

DEMURRER: —

Now comes the defendant by their attorney, C. R. Holcomb, and demurs to the information herein filed for the following reasons: —1st.—That said information does not contain in the title of the action the names of the parties thereto. 2nd.—That said information does not contain a statement of the acts constituting the offence in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended. 3rd.—That said information does not name the person charged nor the particular circumstances of the offence charged. 4. That said information does not state facts which constitute a public offence.

Mr. Holcomb said he interposed a demurrer and raised the question as to the pleadings. An information had been filed, but he would not call it an information or dignify it by that name. He maintained that this action must be brought in the name either of the Secretary or of the Municipal Council of the Foreign Settlements, but the affidavit might be sworn by any person. Now, in the Land Regulation which had been adopted by the different Powers here, Art. XIII said that "it shall be lawful for the said Committee or their Secretary to sue all defaulters in payment of all assessments, rates, taxes, etc." It was part of the law in this Municipal Government that the bringing of an action should be by the Council. In another section of the Land Regulations (sec XIV) it said that "all fines and penalties . . . . shall be carried to the credit of the Committee in diminution of the general expenditure authorized by the provisions of these Regulations." He said as much that the Court should be guided by the Land Regulations, in which case the action should have been taken either in the name of the Council or in that of the Secretary, Mr. Bland.

His Honour said he did not want to hear any more on that point. Any citizen can bring an action to safeguard public interests.

Mr. Holcomb said that he had clearly pointed out that the action must be taken in the name of certain persons.

His Honour said if the Municipal Council did not choose to take action against the offender of a Regulation anybody had the power to do so.

Mr. Holcomb contended that it must be done in the name of the Council. There could be no question about it. The rule laid down in all their Statutes at home was that the action must be laid down in the name of the party who was benefited by it.

His Honour said that the action was brought in the form in use in that Court. By that form practically the petition was made under the title of McNeill v. Dunning, and that was the way the case had been entered.

Mr. Holcomb said the indictment must contain the names of the parties. Mr. McNeill personally had no right to bring this action.

His Honour said he had passed on that point.

Mr. Holcomb said that Sec. 34 said that "No person shall keep a saloon or sell or vend." With regard to that he maintained that the term "Dunning & Co." implied more than one person, and Archibald on "Pleadings" was very plain on that point. A firm might commit the offence, but the indictment must be charged against the individual who sold the liquor. Their own authorities and universal practice was the same. If the Court arrested a firm it must either imprison or fine them. Could the Court imprison a firm? The authorities said that the prosecutor or the party injured must be described with certainty. The law said that it was sufficient to name one person, but the party must be charged and not the firm. If it had been the practice in that Court to allow such things, with all deference to the Court he would say that it was time to follow the precise practice. The practice hitherto was a bad one.

Mr. McNeill said the form was a most suitable one for the Court to follow.

His Honour said that the affidavit must be made more specific.

Mr. McNeill said the Bye-law prevented persons from establishing shops, for the sale of liquor without a license.

His Honour said that the Bye-law went on to say that "no person shall sell." There were two ways of bringing the suit. One was against Dunning & Co. for keeping a place for the sale of liquor, and the other way was against a person for selling liquor.

Mr. McNeill said that in neither case could they go on without a license.

His Honour asked whether Mr. McNeill would change the affidavit charging the firm with keeping a place

for the sale of liquor or the individual for selling the liquor.

Mr. McNeill said that no one could be punished on the latter charge, because the Bye-law did not provide that employees should be licensed. He understood by the rule that if an employee sold the employers were responsible.

His Honour said that was an entirely different proposition. If the defendant had a license nothing could prevent him or his employees from selling in the licensed premises.

Mr McNeill said that the master was responsible if the thing was sold on unlicensed premises.

His Honour said that the employee could say that he acted under his master's orders. In the case brought up the other day plaintiff had the option in the Regulation to sue, but by that regulation they could not sue for fees, because the defendants had no license. The point was clear. The suit ought to be for not taking out a licence instead of being brought for fees. In this case they could bring an action against Dunning & Co. for keeping a place for the sale of liquor. They had their option of accusing the individual himself.

Mr. Holcomb: It was sufficient to name one person.

His Honour: I think it is not necessary to specify partners It is right to say "Dunning doing business with such and such a person."

Mr. Holcomb says that Archibald on Criminal Practice laid it down that no partnership could be convicted. It would be right if the Council said E. H. Dunning a partner in the firm sold liquor without a license.

His Honour: If it is satisfactory to you we will make the change now.

Mr. Holcomb: I will raise another point that it was not E. H. Dunning.

His Honour: I will say E. H. Dunning or his employees.

Mr. Holcomb: E. H. Dunning or employees did not charge Dunning & Co. It meant for example that E. H. D. committed murder through his employees.

Mr. Holcomb continuing said that in the second place he demurred that it was not sufficient to make a statement of that kind. The charge must state the action that constitute the sale. Every offence must be constituted of facts and certain circumstances. In the general pleading material facts and circumstances comprised in the offence must be stated. If any circumstance was omitted the pleading was bad. The indictment should state that the liquor was not only sold but carried away. The paying of the money was another factor which went to prove the sale. A person's liberty could not be taken without due process of law. It had been shown that they had been rather lack in their proceedings which ought to be conducted according to law. In referring to the violation of the law the Council also referred to part of the law. There was a law passed or attempted to be passed that a party should pay license but did not indicate where to pay. He would point out where wrong could be done to them. It said that a licence must be obtained. It meant as it stood that they had not got to pay as no fees were mentioned. In last March they said that the Council was authorized to collect from every shop $20 to $40 a quarter according to class. It was incumbent on defendants to pay for his licence. If the law was not good the custom of the place must prevail. There had never been any licence from the time the Council was contituted up to the present day. No licence was ever issued. Custom therefore should prevail. It could not be contradicted that anyone in this community ever received any licence when they paid any fees to the Council The information did not constitute a crime or offence though it was a misdemeanour.

His Honour then had the Counsel for the plaintiff make the charge more specific as to place and date and other circumstances

Mr. Holcomb thought the Court had allowed an error to creep through. In first place they charged them with keeping a shop or store etc. It was the partners that could be punished for keeping a place and the person for selling liquor but he could not be charged with both. There could not be two charges in the indictment. The information did not state facts which constituted a public offense. According to Art. 34 no person could open a shop without a license and no person could sell without a license. In speaking of the sale the information was not definite. The Regulation demanding that licence should be issued among other things for sale of liquor was sanctioned by the Ministers of the Treaty powers. This was part of the law of this Municipality. The section 34 alone contemplated that any person must first have a licence and the reason for that was to give the police authority to prevent sale of liquor unless under license. But he ventured the assertion that there had never been a license of any kind issued by the Council to any person whatever for the sale of liquor. There was no established practice here. This could not be denied. The Council's employes simply went along and collected these taxes. They did not require any one to go and get a license. Their collector went round and this practice had become law. Instead of licences they gave receipts.

His Honour said that he had countersigned the Astor House license and others.

Mr. Holcomb said that it might be as regarded the hotels but for such wholesale houses as Dunning & Co. the Council only gave receipts yet they charged persons with having no licenses.

Mr. Holcomb, continuing, said that according to the regulation no one could sell liquor without a store. It took away the right to sell liquors in

the street and limited the people who sold liquors to store-keepers, restaurant and saloon keepers. Now, in this complaint, the defendants were not charged with keeping a store but with selling liquor. It did not charge them with keeping a store for the sale of liquor. They must do so according to the Regulation. The offence was not in selling liquor but in keeping a store. They could not get out of this. In the old days everybody sold liquor, in fact a greater number of big establishments made it a part of their business to sell liquors in cases, and some even in bottles. He said that the information did not state the facts for this reason. The section of Resolution 5th, passed at the ratepayers' meeting in March 1901 was void, because it was indefinite, and no classification of dealers in liquor was made or authorized by law. The ratepayers alone had the power of making the classification, provided sanction of the Consular Body was obtained, otherwise it could not become law. It required the sanction of the Consuls. The ratepayers did not give the Council power to make any classification unless this construction could be put upon the rule. By referring to Rule 34 "in respect of such licenses the Council might impose such conditions as require." Now, to impose a condition did not mean to say that they had the right to classify or make a law affecting the revenue, but only to make Police Regulations as to the vending of liquor within certain hours, etc. The authority to make conditions did not refer to classification. But without authority the Council had attempted to say to these people who dealt in liquor: "We will classify you, will exact from you so much, and if you are wholesale sellers we will not charge you" The latter had no classification. The Council made a difference between selling a case and a bottle of wine.

His Honour intimated that he would hear the evidence now, and that Mr. Holcomb would be heard later.

Mr. McNeill, in opening the case said that the charge against Mr. Dunning made under an affidavit was that of selling liquors without a license. He would prove that a person in the Municipal employ did, on the 23rd October, purchase certain whisky from the defendant, who did not have a license according to the bye-law.

Arthur Moore, P.C. No. 68, sworn, stated that on the day in question he went into the defendants' store when an employee approached him from behind the counter and asked him what he could do for him. He did not know the man's name, but he could point him out. The man had no hat on and asked him what he wanted. He replied that he wanted a little butter and a tin of jam. Then he said he wanted a pound of cheese. After this he asked for a bottle of Cyrus Whiskey. He then asked what was the price altogether, and was told it was $3.15, which he paid.

Cross-examined: I am employed by the Council. I was sent by Inspector Armstrong to make these purchases. I do not use any liquor and bought it for the Inspector. I paid for it myself, and expect to be repaid. My object in buying the cheese was simply because Inspector Armstrong said that he might use it in his mess. The purchase of cheese was not to throw defendants off the scent. Inspector Armstrong simply told me to buy these things for him. I was not acting under authority. I expected to be reimbursed. The Inspector simply told me he wanted those things for his own use. He said "you buy them and I can use them in my mess." I am sure the bottle produced is the one I bought from defendant. I am sure that bottle contains whisky, because when I asked for a bottle of whisky they gave me that bottle. I asked for marmalade and they gave me marmalade. Inspector Armstrong has used these things in his mess. I have not tasted the things. I have not opened the bottle of whisky. I have not opened the tins, and did not see what it had inside. I do not know how much I paid for the whisky. I think it was a dollar. I am positive I simply asked for the price of the lot. I did not think a big firm would swindle, so I did not ask for the price of each particular article. I think the whisky costs $1; butter 75 cents; jam 75 cents; one pound of cheese 65 cents. I spent altogether $3.15. I did not arrive at this amount by guess-work. I was not buying for myself. I was on duty at the time, but not in uniform. I go on traffic duty on certain afternoons.

Mr. Holcomb: Is it part of your duty to buy provisions and whisky for Inspector Armstrong?—Yes, the Inspector is my master.

In the line of duty. Would you black his boots?—I would, if he asked me to do it.

By the Court: Inspector Armstrong did not tell me to buy the whisky in order to serve as evidence against Dunning. I did not go to the shop as a detective, and did not know at the time that the whisky would be used in evidence. I do not know the man who sold me the whisky, and have no idea if he is still at the shop. He approached me from behind the counter and he brought the whisky to me himself. I gave the money to him and he told a Chinaman to take the things to the door. I gave him $3.20 and he returned me 5 cents on the spot.

W. E. Leveson sworn, stated that he was the Assistant Secretary to the Council. As a matter of fact Dunning & Co. had no license for keeping a shop or store. He was acquainted with the resolution passed by the ratepayers. According to the Resolution the license fees vary according to the class of shops. He was acting as Secretary last year. A classification had been made of stores and shops for the sale of liquor. The classification was done under his authority by the Overseer of Taxes. He did not think

the Council passed on it because it was a thing done every year—routine procedure. After the refusal of some firms to pay the fees, it was submitted to the Council and approved. He thought this was about May. The approval was carried *nem con*. He could not say whether this was on the records. The Council had attempted to impose the license on everybody. It was interpreted to him that a shop or store was held to mean establishments for the retail of liquor. Wholesale dealers meant those who sold by the dozen. That was the dividing line. No foreign shops paid less than $40 fee. There were Chinese shops who also paid $40, in fact, a large proportion of Chinese shops paid $40, and all foreign shops paid $40. Every shop that could be described as first-class paid $40. Mr. Johnson could speak better on the subject and produce a list.

The case was then adjourned till 2 p.m.

On resuming, Mr. Leveson, recalled, stated that it was in the Minutes of the Council that the classification had been submitted. It was done at the request of the Council, because he had reported about the difficulty experienced in collecting the license fees for liquor. That was previous to the 4th June. The Council then asked what system was adopted, and the report produced was then submitted. The report was read at the meeting, and in the absence of anything to the contrary it was approved and passed. No formal vote was taken. The classification of the license was done by the overseer of taxes. It had the sanction of the Council by its being mentioned in the Minutes. Sometime before the commencement of this action he called on Mr. Dunning who said that he was prepared to take out a license, but that he objected to the large fee charged. Mr. Dunning intended to take a license but refused to pay $40. Witness would not reduce the license fee to $20.

Mr. Holcomb asked whether Inspector Armstrong acted under the Council's instructions.

His Honour overruled the question.

Mr. McNeill said that as a matter of fact the bottle of whisky was not bought for the private use of Inspector Armstrong, but for the purposes of the case.

A. Johnsford, overseer of taxes, sworn, stated that the report produced was made by him. As a matter of fact he made the classification. He had done those classifications since 1893. He was instructed by the Secretary of the Council to do so. It was part of his ordinary duty to make classifications.

Cross-examined: He took his orders from the Secretary of the Council. These orders sometimes bore the legend "By order of the Council." He understood by the instructions that only retail sellers were to be taxed. He thought he was instructed by the Secretary to that effect. He understood he was only to charge the retail traders. He charged only those who sold broken cases. It was his own idea to classify retail as less than a dozen.

Mr. Holcomb: Do you know that champagne cases contained more than a dozen? Is it true you make a difference between retail and wholesale?—When I said sale less than one case, I meant retail up to 11 bottles. It is my own idea about the number of bottles. I received instructions to charge only retail shops.

By Mr. McNeill: I made the report to the Secretary before the Budget.

Mr. Holcomb asked that the case be dismissed, as the charge had not been proved by the evidence. In the first place in charging in the information it was incumbent to designate all acts complained of. In the complaint they had designated that the act was committed at No. 9A, Nanking Road. They had not proved that it was committed at No. 9A, Nanking Road. Even if they had done so, he could prove that it was not committed at the premises mentioned.

E. H. Dunning, sworn, stated that his business premises was in 32A, Nanking Road.

Mr. Holcomb continuing said that an affidavit was a solemn statement of facts, and everything alleged therein must be proved. It had not been proved that the act was committed in 9A Nanking Road as alleged, and he had shown that it was done somewhere else. On broader grounds the information did not contain facts constituting a public offence. The action was taken under Regulation 34, which said that no person shall keep a shop or store for the sale of liquor. Section 5 of the Resolution regarding licenses said that anyone opening a store should pay $20 to $40 according to class. There was no proof that any classification had been made. The only classification that they knew of was made by the servants of the Council who were in no capacity to make any law. Their duty was to carry out the law and not to make it. According to the evidence of Mr. Leveson the most material thing in the whole case was that Mr. Dunning was willing to take a license, but it was refused him because he did not want to pay more than $20. The classification made was no classification at all, because it did not classify all cases. That Mr. Dunning wanted to pay was within the knowledge of that Court and of the Council that he attempted to do the right thing. Then followed the action to collect the fees. After taking this action; after attempting to collect the fee he maintained that no one had a right to decoy a man to commit an offence in order to punish him. On the broad ground, the intention and the general reputation of the defendant could not be questioned. He was willing to have a license, but it was refused him because he did not want to pay $40. He was willing to abide by the law and if this Court decided not to uphold the classification, all Mr. Dunning had to do was to go and ask for a license.

Under the regulation it had been reserved for the Consuls to say whether he was the right person to whom the license should be issued. It had been left to the Consuls to say whether this man or that man should engage in liquor traffic, but there was nothing to show that the Consuls had approved the Regulation. As far as he could see this case was more or less a persecution, and ought not to be tolerated. The labourer was worthy of his hire. The Court had official knowledge why they should be living under an indefinite law, because it did not suit the ruling of the Secretary's office. They could not go outside of the Secretary's office in this prosecution. The law must be clear and definite. The law could not be written in small-hand and pinned high upon the wall of the Secretary's office. It must be known outside of the tax-office. Was it law unless known by the people? Could a Secretary in the back chamber of his office make a report and call it law? If the Council could do that he would call it persecution and not prosecution. The Police witness said that he would blacken the boots of the Inspector; that he was such a servant of his and not of them. He paid his taxes and he he had as much right to ask the constable to blacken his boots. According to Mr. Leveson, Indians, half-castes and Japanese got licences for less than the Europeans, who were entitled to as much protection. There should be no class legislation, and they could not go outside of the law. He must ask that this case be dismissed without offering any evidence in rebuttal. It was within the knowledge of this Court that defendant was ready to obtain a license, but could not obtain it because of an unlawful fee.

Mr. McNeill said that it seemed to him that they had a simple matter there to decide. It seemed to him that the failure to comply with the bye-law resulted in the liability to be sued in some summary way. But two questions had been raised namely whether the ratepayers had the power to pass a Resolution that the Council should charge certain fees; and secondly, whether the charge was a legal one. Those were the two questions to which he would confine himself. With regard to the sale having been made by an employee of Dunning & Co. he submitted that it had been distinctly proved that when the constable went to the shop he was approached by some one there who received the money for the bottle of whisky on Mr. Dunning's behalf, and ordered a Chinese to put the purchases outside. It was quite clear that the man got the goods and paid for them.

His Honor said that if it required the evidence of a decoy to prove a fact, was it not usually necessary for the Courts to require strong corroboration in the case of employees of the Council or Government who went about without disclosing their identity and persuaded others to do unlawful acts?

Mr. McNeill contended that it was necessary to employ informers, especially in libel cases, to purchase a copy of the publication, otherwise no conviction could be obtained.

His Honour said that in that case the action would be against the publishers.

Mr McNeill said the case he had in his mind was that of Bradlaugh who published some books which rendered him liable to prosecution. In order to prove publication it was found necessary to send some one to purchase the books. In the present case what they wanted was to get up a test-case, and Mr. Dunning refused their request that he would sell a bottle of liquor for the purposes of the case. They might have used one of Mr. Dunning's own customers (laughter.) But it was impossible to prove from a bill that the sale took place on a certain day. There really was no attempt to induce Mr. Dunning to commit a crime beyond tendering the price of goods in which he dealt. Land Regulation IX gave powers to the ratepayers to impose fees. He had an important judgment of the Court of Consuls which said distinctly that this Regulation did give the power. It was in the matter of rickshas. He maintained that by Regulation XI the Council had all the powers which the byelaws gave them. He thought the byelaws ought to be interpreted in a liberal spirit. In construing the words "Charge such fees as may be authorized" in bye-law 34 the broadest meaning that could be given to them would be that the Council could charge any fee they pleased, if authority was given in those terms. The widest possible meaning was that if the ratepayers authorised the Council to charge fees they thought proper they could do so. Undoubtedly the words of the regulation would carry that meaning. The narrowest meaning was that the Council was only entitled to charge such fees of such amounts on such persons as might be mentioned by the ratepayers. In that case the ratepayers would have to pronounce as to the persons to be taxed and the amount of each person's tax. Something between those two meanings must be the meaning. The ratepayers could not tell the Council to do as they pleased. The ratepayers were intended by the spirit of the byelaws to define in a reasonable way, such as all public bodies did, a scale of fees as proposed and designate the class of objects to be taxed and then they had complied with the meaning of the byelaw in a substantial manner. With regard to the rights of the Ratepayers and of the Council to delegate their powers he cited the case of the Corporation of London who delegated the task of fixing the cart tax to the governors of the Christ's Hospital. The judgment in the case said that when a thing was left to the discretion of the corporation, they were practically authorised to delegate

their powers. In this case the Council was practically authorized to delegate their power because the thing was left to them and those who had complained against what they had done were not entitled to complain of a thing which was left to the Council's discretion. Mr. Johnsford had stated it was one of his duties to classify. He was in the habit of making certain charges, and the Council were aware that he was doing his duties and the Council understood that he did them. As regarded the classification it did exclude some people. The bye law said every shop. It was impossible to contend that those words did not go too far. If the Council imposed a fee the Council should charge such fees as the ratepayers authorised. The authority given to the Council was to impose certain charges upon certain businesses. Of course it was necessary to go to the particular article under which the tax was imposed. This particular byelaw was intended to give the Council control upon certain establishments for the purpose of good order. When the ratepayers give power to impose taxes the intention was to give control and therefore the Council were bound to be very careful not to impose taxes not intended for the keeping of good order. They had been taxing since 1839 native retail dealers in liquor and they had now begun to tax foreign dealers because it appeared that it was not only necessary to keep a certain amount of control over taverns but also over shops which sold liquor by retail and where people could get liquor in the same way as in an hotel. They imposed a license fee on the dealers because there was a great number of such shops in certain quarters of the town and it was desirable to check their increase. When Mr. Danning took up the business of a retailer of liquor as he did it was difficult to discriminate between him and the others. The presumption was that the Council had good reasons to delegate the classification to Mr. Johnsford though not in express terms. Of course on good shops they did not intend to charge the same fees, as on bad ones but they were not required to take the trouble to see what amount of money each man earned by sale of liquor. The people in the Central district paid high rents and when they could afford to pay such rents it was supposed that they made a good business. Where good customers resorted they did not bother about the extent of their liquor business as compared with that of other people in the same class of business also having good establishments. It was reasonable that a man in a small way of business should pay less. A man in Hongkew could not sell more whisky than a man in the Central district.

His Honour asked if there was any argument that a man paid greater or less tax according to his means.

Mr. McNeill said that they did not want to destroy a man's business. They only wanted to control the sale of liquor. If a man did not behave himself they took away his license.

Mr. Holcomb said the respectable stores were charged a higher fee. The small shops did more harm and paid a less fee.

His Honour reserved his decision.

U.S. CONSULAR COURT.

Shanghai, 14th November.

Before the Hon. John Goodnow, Consul-General.

McNEILL v. DUNNING.

Mr. J. C. Hanson on behalf of Mr. D. McNeill appeared for the Council and Mr. C. R. Holcomb for the defendant firm.

His Honour delivered the following judgment on the above case.

In this case E. H. Dunning a partner of the firm of Dunning & Co., by himself and his employe, is charged with selling at No. 9 Nanking Road for the sum of one dollar a bottle of whisky to one Arthur Moore and on the bottle of whisky being delivered to the said Arthur Moore that said Moore paid to the said Dunning or his employé the sum of one dollar. Now the selling of liquor is contrary to the Municipal Byelaws and by Resolution V adopted by the Ratepayers at the last annual meeting the byelaw was made applicable to all shops and stores. Byelaw 34 so far as it applies to this case is as follows:

"No person shall open or keep a fair, market, house or place of public entertainment, music hall, theatre, circus, billiard, bowling or dancing saloon, brothel or pawnshop, dairy, or laundry, shop, or store, for the sale of wines, spirits, beer, intoxicating or other drugs, butchers' meat, poultry or game, slaughter house or livery stable, or sell or vend any wines, spirits, beer, intoxicating or other drugs, butchers' meat, poultry or game, or keep for private use or ply, let or use for hire, any boat, horse or vehicle, within such limits, without a license first obtained from the Council, and in the case of Foreigners countersigned by the Consul of the nationality to which such person belongs. In respect of such licenses, the Council may impose such conditions and exact such security as the nature of the particular case may require, and charge such fees in respect thereof as may be authorized at the Annual General Meeting of Ratepayers. And any person offending against or infringing the provisions of this Bye-law shall be liable for every offence to a fine not exceeding one hundred dollars, and a further fine for every twenty-four hours' continuance of such offending or infringing not exceeding twenty-five dollars."

Now these regulation and byelaws are the fundamental law of this community so far as it gives power to the Council and is the only foundation for such power and no one except the powers who created it have any right to add to or take from it one single word, and where the meaning is expressed plainly, no one has the power to go beyond the plain meaning of the words. On the other hand the citizens of Shanghai are bound by these laws and by actions taken in accordance with them. In this matter of license the ratepayers passed the following at the last annual meeting:—

"License fees for every shop or store for the sale of wines, spirits or beer according to class of establishment, from $20 to $40 per quarter, payable in advance."

I am asked to dismiss this case for two reasons. The first reason was that the intention of the ratepayers was not properly carried out in enforcing Resolution V. I do not see the validity or strength of that reason. This is not a suit to determine the amount of license but to punish Dunning for, as alleged, violating byelaw 34. If we grant for argument's sake that the Regulation has not been properly carried out so that the classification is void or that there are no different classes of licenses, that would not follow that anybody can sell liquor without a license. On the contrary, if the contention of the Counsel for the defence is true that the classification being bad there is no license fee, then no one can sell liquor in Shanghai. The second reason urged for the dismissal of this case is that the allegations of the complaint have not been proved. I am not going to decide this case from hearsay or gossip nor from general knowledge, unless that general knowledge is shown in Court, but I am going to decide it exactly from the facts before me. It is pleaded here that the sale of the bottle of whisky was made in No. 9 Nanking Road at the specific sum of one dollar, and that the sale was made by Dunning or by an employe of his. The entire case rests on the testimony of Arthur Moore. The fact that there is no license is admitted. Arthur Moore testifies that it was at No. 9, Nanking Road, (which is not Dunning's place of business,) and that he went there and bought four items and paid a gross sum and did not ask for the specific sum charged for the so-called whisky. Now, in order to convict anyone of sell- ing liquor it must be shown that something was sold and that something was liquor. No proof was offered that money was paid for the bottle in question. Nothing was shown but that $3 were paid which may have been for the other items purchased. There is no proof that the man alleged to have made the sale is an employé of Dunning. The witness said that he thought it was an employé because the man came from behind the counter. He said also that he could point out the man, but no efforts have been made to identify this man. There is no proof brought forward that this something which the witness claims to have bought, is whisky. The bottle has been exhibited here, but I could not find anything on the bottle denoting it to be whisky. The bottle has not been opened. For these reasons I must dismiss the case. In addition I desire to say this: if the question is as regarding the classification of shops and stores, and the legality of the present licensing system, then I would suggest that the question be submitted to the arbitration of representatives of different nationalities here who could pass on this licence matter. The other alternative is to give a license to Dunning, if he desires to sell liquor, and then sue him for fees. Or to refuse Dunning a license and let him sue the Council in the Court of Consuls to compel the Council to give him a license at a specified price.

U. S. Consular Court.

MUNICIPAL COUNCIL

v.

DUNNING & Co.

U.S. CONSULAR COURT.

Shanghai, 25th October.

Before the Hon. JOHN GOODNOW, Consul-General.

MUNICIPAL COUNCIL v. DUNNING AND CO.

Mr. D. McNeill appeared for the plaintiff and Mr. C. R. Holcomb for the defendants.

The following affidavit was sworn to in the above case: —

AFFIDAVIT.

Personally appeared Duncan McNeill who made oath that on Tuesday the 22nd day of October, 1901, Messrs. Dunning and Co. at Shanghai, China, did sell to one Arthur Moore, one bottle of whiskey without a licence, contrary to the provisions of Municipal Bye-Law No. XXXIV.

The following was the demurrer put in by the defendants

DEMURRER: —

Now comes the defendant by their attorney, C. R. Holcomb, and demurs to the information herein filed for the following reasons: —1st.—That said information does not contain in the title of the action the names of the parties thereto. 2nd.—That said information does not contain a statement of the acts constituting the offence in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended. 3rd.—That said information does not name the person charged nor the particular circumstances of the offence charged. 4. That said information does not state facts which constitute a public offence.

Mr. Holcomb said he interposed a demurrer and raised the question as to the pleadings. An information had been filed, but he would not call it an information or dignify it by that name. He maintained that this action must be brought in the name either of the Secretary or of the Municipal Council of the Foreign Settlements, but the affidavit might be sworn by any person. Now, in the Land Regulation which had been adopted by the different Powers here, Art. XIII said that "it shall be lawful for the said Committee or their Secretary to sue all defaulters in payment of all assessments, rates, taxes, etc." It was part of the law in this Municipal Government that the bringing of an action should be by the Council. In another section of the Land Regulations (sec XIV) it said that "all fines and penalties . . . . shall be carried to the credit of the Committee in diminution of the general expenditure authorized by the provisions of these Regulations." He said as much that the Court should be guided by the Land Regulations, in which case the action should have been taken either in the name of the Council or in that of the Secretary, Mr. Bland.

His Honour said he did not want to hear any more on that point. Any citizen can bring an action to safeguard public interests.

Mr. Holcomb said that he had clearly pointed out that the action must be taken in the name of certain persons.

His Honour said if the Municipal Council did not choose to take action against the offender of a Regulation anybody had the power to do so

Mr. Holcomb contended that it must be done in the name of the Council. There could be no question about it. The rule laid down in all their Statutes at home was that the action must be laid down in the name of the party who was benefited by it.

His Honour said that the action was brought in the form in use in that Court. By that form practically the petition was made under the title of McNeill v. Dunning, and that was the way the case had been entered.

Mr. Holcomb said the indictment must contain the names of the parties. Mr. McNeill personally had no right to bring this action.

His Honour said he had passed on that point.

Mr. Holcomb said that Sec. 34 said that "No person shall keep a saloon or sell or vend." With regard to that he maintained that the term "Dunning & Co." implied more than one person, and Archibald on "Pleadings" was very plain on that point. A firm might commit the offence, but the indictment must be charged against the individual who sold the liquor. Their own authorities and universal practice was the same. If the Court arrested a firm it must either imprison or fine them. Could the Court imprison a firm? The authorities said that the prosecutor or the party injured must be described with certainty. The law said that it was sufficient to name one person, but the party must be charged and not the firm. If it had been the practice in that Court to allow such things, with all deference to the Court he would say that it was time to follow the precise practice. The practice hitherto was a bad one.

Mr. McNeill said the form was a most suitable one for the Court to follow.

His Honour said that the affidavit must be made more specific.

Mr. McNeill said the Bye-law prevented persons from establishing shops, for the sale of liquor without a license.

His Honour said that the Bye-law went on to say that "no person shall sell." There were two ways of bringing the suit. One was against Dunning & Co. for keeping a place for the sale of liquor, and the other way was against a person for selling liquor.

Mr. McNeill said that in neither case could they go on without a license.

His Honour asked whether Mr. McNeill would change the affidavit charging the firm with keeping a place

for the sale of liquor or the individual for selling the liquor.

Mr. McNeill said that no one could be punished on the latter charge, because the Bye-law did not provide that employees should be licensed. He understood by the rule that if an employee sold the employers were responsible.

His Honour said that was an entirely different proposition. If the defendant had a license nothing could prevent him or his employees from selling in the licensed premises.

Mr McNeill said that the master was responsible if the thing was sold on unlicensed premises.

His Honour said that the employee could say that he acted under his master's orders. In the case brought up the other day plaintiff had the option in the Regulation to sue, but by that regulation they could not sue for fees, because the defendants had no license. The point was clear. The suit ought to be for not taking out a licence instead of being brought for fees. In this case they could bring an action against Dunning & Co. for keeping a place for the sale of liquor. They had their option of accusing the individual himself.

Mr. Holcomb: It was sufficient to name one person.

His Honour: I think it is not necessary to specify partners It is right to say "Dunning doing business with such and such a person."

Mr. Holcomb says that Archibald on Criminal Practice laid it down that no partnership could be convicted. It would be right if the Council said E. H. Dunning a partner in the firm sold liquor without a licenre.

His Honour: If it is satisfactory to you we will make the change now.

Mr. Holcomb: I will raise another point that it was not E. H. Dunning.

His Honour: I will say E. H. Dunning or his employees.

Mr. Holcomb: E. H. Dunning or employees did not charge Dunning & Co. It meant for example that E. H. D. committed murder through his employees.

Mr. Holcomb continuing said that in the second place he demurred that it was not sufficient to make a statement of that kind. The charge must state the action that constitute the sale. Every offence must be constituted of facts and certain circumstances. In the general pleading material facts and circumstances comprised in the offence must be stated. If any circumstance was omitted the pleading was bad. The indictment should state that the liquor was not only sold but carried away. The paying of the money was another factor which went to prove the sale. A person's liberty could not be taken without due process of law. It had been shown that they had been rather lack in their proceedings which ought to be conducted according to law. In referring to the violation of the law the Council also referred to part of the law. There was a law passed or attempted to be passed that a party should pay license but did not indicate where to pay. He would point out where wrong could be done to them. It said that a licence must be obtained. It meant as it stood that they had not got to pay as no fees were mentioned. In last March they said that the Council was authorized to collect from every shop $20 to $40 a quarter according to class. It was incumbent on defendants to pay for his licence. If the law was not good the custom of the place must prevail. There had never been any licence from the time the Council was contituted up to the present day. No licence was ever issued. Custom therefore should prevail. It could not be contradicted that anyone in this community ever received any licence when they paid any fees to the Council The information did not constitute a crime or offence though it was a misdemeanour.

His Honour then had the Counsel for the plaintiff make the charge more specific as to place and date and other circumstances

Mr. Holcomb thought the Court had allowed an error to creep through. In first place they charged them with keeping a shop or store etc. It was the partners that could be punished for keeping a place and the person for selling liquor but he could not be charged with both. There could not be two charges in the indictment. The information did not state facts which constituted a public offense. According to Art. 34 no person could open a shop without a license and no person could sell without a license. In speaking of the sale the information was not definite. The Regulation demanding that licence should be issued among other things for sale of liquor was sanctioned by the Ministers of the Treaty powers. This was part of the law of this Municipality. The section 34 alone contemplated that any person must first have a licence and the reason for that was to give the police authority to prevent sale of liquor unless under license. But he ventured the assertion that there had never been a license of any kind issued by the Council to any person whatever for the sale of liquor. There was no established practice here. This could not be denied. The Council's employes simply went along and collected these taxes. They did not require any one to go and get a license. Their collector went round and this practice had become law. Instead of licences they gave receipts.

His Honour said that he had countersigned the Astor House license and others.

Mr. Holcomb said that it might be as regarded the hotels but for such wholesale houses as Dunning & Co. the Council only gave receipts yet they charged persons with having no licenses.

Mr. Holcomb, continuing, said that according to the regulation no one could sell liquor without a store. It took away the right to sell liquors in

the street and limited the people who sold liquors to store-keepers, restaurant and saloon keepers. Now, in this complaint, the defendants were not charged with keeping a store but with selling liquor. It did not charge them with keeping a store for the sale of liquor. They must do so according to the Regulation. The offence was not in selling liquor but in keeping a store. They could not get out of this. In the old days everybody sold liquor, in fact a greater number of big establishments made it a part of their business to sell liquors in cases, and some even in bottles. He said that the information did not state the facts for this reason. The section of Resolution 5th, passed at the ratepayers' meeting in March 1901 was void, because it was indefinite, and no classification of dealers in liquor was made or authorized by law. The ratepayers alone had the power of making the classification, provided sanction of the Consular Body was obtained, otherwise it could not become law. It required the sanction of the Consuls. The ratepayers did not give the Council power to make any classification unless this construction could be put upon the rule. By referring to Rule 34 "in respect of such licenses the Council might impose such conditions as require." Now, to impose a condition did not mean to say that they had the right to classify or make a law affecting the revenue, but only to make Police Regulations as to the vending of liquor within certain hours, etc. The authority to make conditions did not refer to classification. But without authority the Council had attempted to say to these people who dealt in liquor: "We will classify you, will exact from you so much, and if you are wholesale sellers we will not charge you." The latter had no classification. The Council made a difference between selling a case and a bottle of wine.

His Honour intimated that he would hear the evidence now, and that Mr. Holcomb would be heard later.

Mr. McNeill, in opening the case said that the charge against Mr. Dunning made under an affidavit was that of selling liquors without a license. He would prove that a person in the Municipal employ did, on the 23rd October, purchase certain whisky from the defendant, who did not have a license according to the bye-law.

Arthur Moore, P.C. No. 68, sworn, stated that on the day in question he went into the defendants' store when an employee approached him from behind the counter and asked him what he could do for him. He did not know the man's name, but he could point him out. The man had no hat on and asked him what he wanted. He replied that he wanted a little butter and a tin of jam. Then he said he wanted a pound of cheese. After this he asked for a bottle of Cyrus Whiskey. He then asked what was the price altogether, and was told it was $3.15, which he paid.

Cross-examined: I am employed by the Council. I was sent by Inspector Armstrong to make these purchases. I do not use any liquor and bought it for the Inspector. I paid for it myself, and expect to be repaid. My object in buying the cheese was simply because Inspector Armstrong said that he might use it in his mess. The purchase of cheese was not to throw defendants off the scent. Inspector Armstrong simply told me to buy these things for him. I was not acting under authority. I expected to be reimbursed. The Inspector simply told me he wanted those things for his own use. He said "you buy them and I can use them in my mess." I am sure the bottle produced is the one I bought from defendant. I am sure that bottle contains whisky, because when I asked for a bottle of whisky they gave me that bottle. I asked for marmalade and they gave me marmalade. Inspector Armstrong has used these things in his mess. I have not tasted the things. I have not opened the bottle of whisky. I have not opened the tins, and did not see what it had inside. I do not know how much I paid for the whisky. I think it was a dollar. I am positive I simply asked for the price of the lot. I did not think a big firm would swindle, so I did not ask for the price of each particular article. I think the whisky costs $1; butter 75 cents; jam 75 cents; one pound of cheese 65 cents. I spent altogether $3.15. I did not arrive at this amount by guess-work. I was not buying for myself. I was on duty at the time, but not in uniform. I go on traffic duty on certain afternoons.

Mr. Holcomb: Is it part of your duty to buy provisions and whisky for Inspector Armstrong?—Yes, the Inspector is my master.

In the line of duty. Would you black his boots?—I would, if he asked me to do it.

By the Court: Inspector Armstrong did not tell me to buy the whisky in order to serve as evidence against Dunning. I did not go to the shop as a detective, and did not know at the time that the whisky would be used in evidence. I do not know the man who sold me the whisky, and have no idea if he is still at the shop. He approached me from behind the counter and he brought the whisky to me himself. I gave the money to him and he told a Chinaman to take the things to the door. I gave him $3.20 and he returned me 5 cents on the spot.

W. E. Leveson sworn, stated that he was the Assistant Secretary to the Council. As a matter of fact Dunning & Co. had no license for keeping a shop or store. He was acquainted with the resolution passed by the ratepayers. According to the Resolution the license fees vary according to the class of shops. He was acting as Secretary last year. A classification had been made of stores and shops for the sale of liquor. The classification was done under his authority by the Overseer of Taxes. He did not think

the Council passed on it because it was a thing done every year—routine procedure. After the refusal of some firms to pay the fees, it was submitted to the Council and approved. He thought this was about May. The approval was carried *nem con.* He could not say whether this was on the records. The Council had attempted to impose the license on everybody. It was interpreted to him that a shop or store was held to mean establishments for the retail of liquor. Wholesale dealers meant those who sold by the dozen. That was the dividing line. No foreign shops paid less than $40 fee. There were Chinese shops who also paid $40, in fact, a large proportion of Chinese shops paid $40, and all foreign shops paid $40. Every shop that could be described as first-class paid $40. Mr. Johnson could speak better on the subject and produce a list.

The case was then adjourned till 2 p.m.

On resuming, Mr. Leveson, recalled, stated that it was in the Minutes of the Council that the classification had been submitted. It was done at the request of the Council, because he had reported about the difficulty experienced in collecting the license fees for liquor. That was previous to the 4th June. The Council then asked what system was adopted, and the report produced was then submitted. The report was read at the meeting, and in the absence of anything to the contrary it was approved and passed. No formal vote was taken. The classification of the license was done by the overseer of taxes. It had the sanction of the Council by its being mentioned in the Minutes. Sometime before the commencement of this action he called on Mr. Dunning who said that he was prepared to take out a license, but that he objected to the large fee charged. Mr. Dunning intended to take a license but refused to pay $40. Witness would not reduce the license fee to $20.

Mr. Holcomb asked whether Inspector Armstrong acted under the Council's instructions.

His Honour overruled the question.

Mr. McNeill said that as a matter of fact the bottle of whisky was not bought for the private use of Inspector Armstrong, but for the purposes of the case.

A. Johnsford, overseer of taxes, sworn, stated that the report produced was made by him. As a matter of fact he made the classification. He had done those classifications since 1893. He was instructed by the Secretary of the Council to do so. It was part of his ordinary duty to make classifications.

Cross-examined: He took his orders from the Secretary of the Council. These orders sometimes bore the legend "By order of the Council." He understood by the instructions that only retail sellers were to be taxed. He thought he was instructed by the Secretary to that effect. He understood he was only to charge the retail traders. He charged only those who sold broken cases. It was his own idea to classify retail as less than a dozen.

Mr. Holcomb: Do you know that champagne cases contained more than a dozen? Is it true you make a difference between retail and wholesale?—When I said sale less than one case, I meant retail up to 11 bottles. It is my own idea about the number of bottles. I received instructions to charge only retail shops.

By Mr. McNeill: I made the report to the Secretary before the Budget.

Mr. Holcomb asked that the case be dismissed, as the charge had not been proved by the evidence. In the first place in charging in the information it was incumbent to designate all acts complained of. In the complaint they had designated that the act was committed at No. 9A, Nanking Road. They had not proved that it was committed at No. 9A, Nanking Road. Even if they had done so, he could prove that it was not committed at the premises mentioned.

E. H. Dunning, sworn, stated that his business premises was in 32A, Nanking Road.

Mr. Holcomb continuing said that an affidavit was a solemn statement of facts, and everything alleged therein must be proved. It had not been proved that the act was committed in 9A Nanking Road as alleged, and he had shown that it was done somewhere else. On broader grounds the information did not contain facts constituting a public offence. The action was taken under Regulation 34, which said that no person shall keep a shop or store for the sale of liquor. Section 5 of the Resolution regarding licenses said that anyone opening a store should pay $20 to $40 according to class. There was no proof that any classification had been made. The only classification that they knew of was made by the servants of the Council who were in no capacity to make any law. Their duty was to carry out the law and not to make it. According to the evidence of Mr. Leveson the most material thing in the whole case was that Mr. Dunning was willing to take a license, but it was refused him because he did not want to pay more than $20. The classification made was no classification at all, because it did not classify all cases. That Mr. Dunning wanted to pay was within the knowledge of that Court and of the Council that he attempted to do the right thing. Then followed the action to collect the fees. After taking this action; after attempting to collect the fee he maintained that no one had a right to decoy a man to commit an offence in order to punish him. On the broad ground, the intention and the general reputation of the defendant could not be questioned. He was willing to have a license, but it was refused him because he did not want to pay $40. He was willing to abide by the law and if this Court decided not to uphold the classification, all Mr. Dunning had to do was to go and ask for a license.

Under the regulation it had been reserved for the Consuls to say whether he was the right person to whom the license should be issued. It had been left to the Consuls to say whether this man or that man should engage in liquor traffic, but there was nothing to show that the Consuls had approved the Regulation. As far as he could see this case was more or less a persecution, and ought not to be tolerated. The labourer was worthy of his hire. The Court had official knowledge why they should be living under an indefinite law, because it did not suit the ruling of the Secretary's office. They could not go outside of the Secretary's office in this prosecution. The law must be clear and definite. The law could not be written in small-hand and pinned high upon the wall of the Secretary's office. It must be known outside of the tax-office. Was it law unless known by the people? Could a Secretary in the back chamber of his office make a report and call it law? If the Council could do that he would call it persecution and not prosecution. The Police witness said that he would blacken the boots of the Inspector; that he was such a servant of his and not of them. He paid his taxes and he he had as much right to ask the constable to blacken his boots. According to Mr. Leveson, Indians, half-castes and Japanese got licences for less than the Europeans, who were entitled to as much protection. There should be no class legislation, and they could not go outside of the law. He must ask that this case be dismissed without offering any evidence in rebuttal. It was within the knowledge of this Court that defendant was ready to obtain a license, but could not obtain it because of an unlawful fee.

Mr. McNeill said that it seemed to him that they had a simple matter there to decide. It seemed to him that the failure to comply with the bye-law resulted in the liability to be sued in some summary way. But two questions had been raised namely whether the ratepayers had the power to pass a Resolution that the Council should charge certain fees; and secondly, whether the charge was a legal one. Those were the two questions to which he would confine himself. With regard to the sale having been made by an employee of Dunning & Co. he submitted that it had been distinctly proved that when the constable went to the shop he was approached by some one there who received the money for the bottle of whisky on Mr. Dunning's behalf, and ordered a Chinese to put the purchases outside. It was quite clear that the man got the goods and paid for them.

His Honor said that if it required the evidence of a decoy to prove a fact, was it not usually necessary for the Courts to require strong corroboration in the case of employees of the Council or Government who went about without disclosing their identity and persuaded others to do unlawful acts?

Mr. McNeill contended that it was necessary to employ informers, especially in libel cases, to purchase a copy of the publication, otherwise no conviction could be obtained.

His Honour said that in that case the action would be against the publishers.

Mr McNeill said the case he had in his mind was that of Bradlaugh who published some books which rendered him liable to prosecution. In order to prove publication it was found necessary to send some one to purchase the books. In the present case what they wanted was to get up a test-case, and Mr. Dunning refused their request that he would sell a bottle of liquor for the purposes of the case. They might have used one of Mr. Dunning's own customers (laughter.) But it was impossible to prove from a bill that the sale took place on a certain day. There really was no attempt to induce Mr. Dunning to commit a crime beyond tendering the price of goods in which he dealt. Land Regulation IX gave powers to the ratepayers to impose fees. He had an important judgment of the Court of Consuls which said distinctly that this Regulation did give the power. It was in the matter of rickshas. He maintained that by Regulation XI the Council had all the powers which the byelaws gave them. He thought the byelaws ought to be interpreted in a liberal spirit. In construing the words "Charge such fees as may be authorized" in bye-law 34 the broadest meaning that could be given to them would be that the Council could charge any fee they pleased, if authority was given in those terms. The widest possible meaning was that if the ratepayers authorised the Council to charge fees they thought proper they could do so. Undoubtedly the words of the regulation would carry that meaning. The narrowest meaning was that the Council was only entitled to charge such fees of such amounts on such persons as might be mentioned by the ratepayers. In that case the ratepayers would have to pronounce as to the persons to be taxed and the amount of each person's tax. Something between those two meanings must be the meaning. The ratepayers could not tell the Council to do as they pleased. The ratepayers were intended by the spirit of the byelaws to define in a reasonable way, such as all public bodies did, a scale of fees as proposed and designate the class of objects to be taxed and then they had complied with the meaning of the byelaw in a substantial manner. With regard to the rights of the Ratepayers and of the Council to delegate their powers he cited the case of the Corporation of London who delegated the task of fixing the cart tax to the governors of the Christ's Hospital. The judgment in the case said that when a thing was left to the discretion of the corporation, they were practically authorised to delegate

their powers. In this case the Council was practically authorised to delegate their power because the thing was left to them and those who had complained against what they had done were not entitled to complain of a thing which was left to the Council's discretion. Mr. Johnsford had stated it was one of his duties to classify. He was in the habit of making certain charges, and the Council were aware that he was doing his duties and the Council understood that he did them. As regarded the classification it did exclude some people. The bye law said every shop. It was impossible to contend that those words did not go too far. If the Council imposed a fee the Council should charge such fees as the ratepayers authorised. The authority given to the Council was to impose certain charges upon certain businesses. Of course it was necessary to go to the particular article under which the tax was imposed. This particular byelaw was intended to give the Council control upon certain establishments for the purpose of good order. When the ratepayers gave power to impose taxes the intention was to give control and therefore the Council were bound to be very careful not to impose taxes not intended for the keeping of good order. They had been taxing since 1889 native retail dealers in liquor and they had now begun to tax foreign dealers because it appeared that it was not only necessary to keep a certain amount of control over taverns but also over shops which sold liquor by retail and where people could get liquor in the same way as in an hotel. They imposed a license fee on the dealers because there was a great number of such shops in certain quarters of the town and it was desirable to check their increase. When Mr. Dunning took up the business of a retailer of liquor as he did it was difficult to discriminate between him and the others. The presumption was that the Council had good reasons to delegate the classification to Mr. Johnsford though not in express terms. Of course on good shops they did not intend to charge the same fees, as on bad ones but they were not required to take the trouble to see what amount of money each man earned by sale of liquor. The people in the Central district paid high rents and when they could afford to pay such rents it was supposed that they made a good business. Where good customers resorted they did not bother about the extent of their liquor business as compared with that of other people in the same class of business also having good establishments. It was reasonable that a man in a small way of business should pay less. A man in Hongkew could not sell more whisky than a man in the Central district.

His Honour asked if there was any argument that a man paid greater or less tax according to his means.

Mr. McNeill said that they did not want to destroy a man's business. They only wanted to control the sale of liquor. If a man did not behave himself they took away his license.

Mr. Holcomb said the respectable stores were charged a higher fee. The small shops did more harm and paid a less fee.

His Honour reserved his decision.

U.S. CONSULAR COURT.

Shanghai, 16th November.

Before the Hon. John Goodnow, Consul-General.

MCNEILL V. DUNNING.

Mr. J&C. Hanson on behalf of Mr. D. McNeill appeared for the Council and Mr. C. R. Holcomb for the defendant firm.

His Honour delivered the following judgment on the above case.

In this case E. H. Dunning a partner of the firm of Dunning & Co., by himself and his employe, is charged with selling at No. 9 Nanking Road for the sum of one dollar a bottle of whisky to one Arthur Moore and on the bottle of whisky being delivered to the said Arthur Moore that said Moore paid to the said Dunning or his employé the sum of one dollar. Now the selling of liquor is contrary to the Municipal Byelaws and by Resolution V adopted by the Ratepayers at the last annual meeting the byelaw was made applicable to all shops and stores. Byelaw 34 so far as it applies to this case is as follows:

"No person shall open or keep a fair, market, house or place of public entertainment, music hall, theatre, circus, billiard, bowling or dancing saloon, brothel or pawnshop, dairy, or laundry, shop, or store, for the sale of wines, spirits, beer, intoxicating or other drugs, butchers' meat, poultry or game, slaughter house or livery stable, or sell or vend any wines, spirits, beer, intoxicating or other drugs, butchers' meat, poultry or game, or keep for private use or ply, let or use for hire, any boat, horse or vehicle, within such limits, without a license first obtained from the Council, and in the case of Foreigners countersigned by the Consul of the nationality to which such person belongs. In respect of such licenses, the Council may impose such conditions and exact such security as the nature of the particular case may require, and charge such fees in respect thereof as may be authorized at the Annual General Meeting of Ratepayers. And any person offending against or infringing the provisions of this Bye-law shall be liable for every offence to a fine not exceeding one hundred dollars, and a further fine for every twenty-four hours' continuance of such offending or infringing not exceeding twenty-five dollars."

Now these regulation and byelaws are the fundamental law of this community so far as it gives power to the Council and is the only foundation for such power and no one except the powers who created it have any right to add to or take from it one single word, and where the meaning is expressed plainly, no one has the power to go beyond the plain meaning of the words. On the other hand the citizens of Shanghai are bound by these laws and by actions taken in accordance with them. In this matter of license the ratepayers passed the following at the last annual meeting:—

"License fees for every shop or store for the sale of wines, spirits or beer according to class of establishment, from $20 to $40 per quarter, payable in advance."

I am asked to dismiss this case for two reasons. The first reason was that the intention of the ratepayers was not properly carried out in enforcing Resolution V. I do not see the validity or strength of that reason. This is not a suit to determine the amount of license but to punish Dunning for, as alleged, violating byelaw 34. If we grant for argument's sake that the Regulation has not been properly carried out so that the classification is void or that there are no different classes of licenses, that would not follow that anybody can sell liquor without a license. On the contrary, if the contention of the Counsel for the defence is true that the classification being bad there is no license fee, then no one can sell liquor in Shanghai. The second reason urged for the dismissal of this case is that the allegations of the complaint have not been proved. I am not going to decide this case from hearsay or gossip nor from general knowledge, unless that general knowledge is shown in Court, but I am going to decide it exactly from the facts before me. It is pleaded here that the sale of the bottle of whisky was made in No. 9 Nanking Road at the specific sum of one dollar, and that the sale was made by Dunning or by an employe of his. The entire case rests on the testimony of Arthur Moore. The fact that there is no license is admitted. Arthur Moore testifies that it was at No. 9, Nanking Road, (which is not Dunning's place of business,) and that he went there and bought four items and paid a gross sum and did not ask for the specific sum charged for the so-called whisky. Now, in order to convict anyone of sell- ing liquor it must be shown that something was sold and that something was liquor. No proof was offered that money was paid for the bottle in question. Nothing was shown but that $3 were paid which may have been for the other items purchased. There is no proof that the man alleged to have made the sale is an employé of Dunning. The witness said that he thought it was an employé because the man came from behind the counter. He said also that he could point out the man, but no efforts have been made to identify this man. There is no proof brought forward that this something which the witness claims to have bought, is whisky. The bottle has been exhibited here, but I could not find anything on the bottle denoting it to be whisky. The bottle has not been opened. For these reasons I must dismiss the case. In addition I desire to say this: if the question is as regarding the classification of shops and stores, and the legality of the present licensing system, then I would suggest that the question be submitted to the arbitration of representatives of different nationalities here who could pass on this licence matter. The other alternative is to give a license to Dunning, if he desires to sell liquor, and then sue him for fees. Or to refuse Dunning a license and let him sue the Council in the Court of Consuls to compel the Council to give him a license at a specified price.

No. 420.

DEC 23'01

Consulate-General of the United States,

Shanghai, Nov. 19 1901. , 190

Mr. Goodnow

To the Department of State

Subject:

General T. S. Sharretts.

FILE

Abstract of Contents

Receipt of instructions of Oct 11th.- They will be obeyed c heerfully.

Bureau
DEC28 1901

No. 420 Ltr

Consulate-General of the United States,

Shanghai, Nov. 19 1901. , 190 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your #291 of October 11th, requesting my assistance and cooperation with General T. S.. Sharrett in his mission to China.

Your request will be fully carried out. I feel confident since meeting General Sharretts that it will be a pleasure for me to work with him in any way he may ask.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

TELEGRAM RECEIVED.

ASSISTANT SECRETARY,
NOV 20 1901

From Shanghai

Nov 20, 1901.

Received 1 05 P M.

Sec State,

Washington.

Ans. Nov. 22, 1901

(901.)

Rockhill sends soldier sentenced one year for assault Please wire decision regarding sending prisoners home

See my 402

Goodnow

DEPARTMENT OF STATE
20 1 20PM 1901
CHIEF CLERK'S OFFICE

DEC 23 '01

No. 431.

Consulate-General of the United States,

Shanghai Nov 27 1901.

Hon. Goodnow

To the Department of State.

ANS'D MAR 7 1902

Subject:

Prisoners.

Abstract of Contents.

Report on Jesse E Meeker sent from Tientsin, Asking instructions and making recommendations on various points.

Consular Bureau.
DEC30 1901

No. 421

Consulate-General of the United States,

Shanghai, Nov. 22nd, 1901, 189 .

Honorable T. W. Cridler,

Assistant Secretary of State,

Washington, D. C.

Sir:

On November 20th the Marshal of the U. S. Consular Court of Tientsin delivered to me, to be confined in this jail on the warrant of the U. S. Consul at Tientsin, Jesse E. Tucker, of Company B., 9th U. S. Infantry, convicted of "having commited an assault with a deadly weapon upon a Chinese, causing three serious knife wounds". I enclose herewith copy of letter from Consul Ragsdale.

Tucker is a member of the Legation guard at Peking; was born April 24th, 1877 near Hardensburg, Kentucky; enlisted at Louisville on Oct. 16th, 1901; his father (Bethel Tucker) and mother are living at Eveleigh, Ky. Tucker had British Dollars 7.61 (Mex. $7.30) in his pocket. He claims to have U. S. Gold $70.00 deposited with the pay master of his regiment. I have written to Major Robinson, in command at Peking, asking that any deposit belonging to Tucker be sent here to apply on the man's subsistence. On this point I would ask your instructions. Should the man be confined in this jail one year he will need clothing, and shoes before the end of that period. Shall any amount I receive belonging to him be kept and expended as far as necessary for the above purpose and the balance returned to him when he leaves the prison? or shall it be applied month by month

until exhausted, to the fifty cents per day allowed for his board. I would respectfully recommend the former course if it can be legally done.

I beg to confirm my telegram of Nov. 20th;-

"Secstate, Washington. Ragsdale sends soldier sentenced one year for assault. Please wire decision regarding sedning prisoners home. See my 402. Goodnow"

On July 26th in my Number 402 I asked instructions with regard to the men sent at that time from Tientsin to this jail. That dispatch was written in response to your telegram of July 20th;-

"Keep prisoners pending removal to United States. Report fully. Hill."

At present there are confined in this jail four prisoners; three for four years each and one for one year. If they are to be kept here I must devise some means of regular employment and vigorous exercise. Should it be decided that the men are to remain here I would recommend that all times served over one year should count as double ~~toward~~ on the amount of time to be served on the sentence. In otherwords, that a man sentenced for four years should only serve two years and a half if c onfined during the entire two years and a half in China. I make this recommendation from the well known fact, recognized by all other governments, that confinement in this climate is exceptionally hard on white men. I would further recommend that I be permitted to give an allowance for good behavior to any one sentenced in this jail, not to exceed 20% of the entire sentence. I make this recommendation in view of the fact that most of the sentences are passee on men who are not hardened criminals but who break the law when irresponsible

No.

Consulate-General of the United States,

, 189 .

Mr.

To the Department of State.

Subject:

Abstract of Contents.

on account of liquor. In the present case, while I have not heard the evidence in full, the Marshal and the prisoner agree that the row occurred when the soldier was blind drunk and that the wounded man has already recovered. Under such circumstances it would seem that the ends of Justice can be obtained by less than one year's imprisonment provided that the man shows repentance by good behaviour.

In this connection I would also call your attention to the inquiry in my No. 402 'whether the Marshal's travel fee of fifteen cents per mile applies on these long journeys'. If it does I would call your attention to the fact that the distance from Tientsin to Shanghai is practically seven hundred miles; and the Marshal's fee of fifteen cents per mile traveled in bringing a prisoner from Tientsin here is, practically, U. S. Gold $207.00. The trip takes 6 days and the fare (round trip) is Taels 65. (say gold $43.)

The questions in this despatch and in #402 be come more serious from the fact that we have 150 Legation Guards at Peking. It stands to reason that these men, fed high and with little to do, will have other men such as this one who has now come here. He is a godd simple mountain boy, with only thefailing of wanting to fight when he is drunk. If drunken rows are to end in a ~~xxxx~~ year in jail, the problem of care for prisoners assumes preportions.

I respectfully ask your serious consideration of these matters.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Copy.

No. 107.

Consular Service, U. S. A.

Tientsin, China, Nov. 15th 1901.

Hon. John Goodnow.

U. S. Consul General,

Shanghai.

Sir:-

I have the honor to inform you that on this day Jesse E. Tucker, of Company B. Ninth U. S. Infantry, was convicted in this Court for having committed an assault with a deadly weapon upon a Chinese, causing three serious knife wounds. He has been sentenced to confinement in prison for the term of one year. I have therefore instructed the Marshal of the Court to proceed with the prisoner to Shanghai and turn him over to you that the penalty may be meted out to him as per regulations.

I am, Sir,

Your Obedient Servant.

Signed, James W. Ragsdale

U. S. Consul.

CONSULAR BUREAU.

Acknowledge - thanks Mr. Adee
N. H. D. C.

No. 422.

Consulate-General of the United States,

Shanghai Nov. 26 1901. 190

Mr. Goodnow

Copy to Chino March 15a.

To the Department of State

Subject:

Protection of trademarks

Clerk by form to Interior January 9/02

Ans mch 12/02

Abstract of Contents

Viceroys at Nanking and Foochow have issued proclamations protecting trademarks of the American Tobacco Co.

See Interior Letter mch 6/02

No. 422.

Consulate-General of the United States,

Shanghai, Nov. 26 1901. , 190 .

Honorable T. W. Cridler

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my #414, of Oct. 14 1901, conveying the proclamation issued by H. E. Chang Chi-tung protecting the trademarks of the American Tobacco Co. in the provinces of his Viceroyalty;- I have to report that I have now gotten identical proclamations from Their Excellencies Liu Kun-yi, Viceroy at Nanking, and Hsu Ying-kwei, Viceroy at Foochow.

The three Viceroys govern the provinces of Kiangsu, Nganhwei, Honan, Hupeh, Chekiang, Hunan, Kiangsi, and Fuhkien.

The precedents now thus established make it easy to negotiate a copyright treaty. Until that is done any trademark can be protected as these marks are.

The Chinese Taotai has within the last two months asked me to forbid the unauthorized reproduction by Americans of two Chinese books, which I have done.

I am, Sir, your obedient servant

John Goodnow

Consul General.

TELEGRAM RECEIVED IN CIPHER.

ASSISTANT SECRETARY,
Ack. and file.
DEC 3 1901

DEPT. OF STATE
RECD
DEC 2 1901
CHIEF CLERK'S OFFICE

From Shanghai,

December 2, 1901.

Received 3.10 P. M.

Confirmed Dec. 5. 1901

Secretafy of State,

Washington.

Whangpoo conservancy plan blocked. French Consul says has been ordered not to proceed without definite instructions from French Government.

GOODNOW

Entered by JRB, Chief Clerk's Office

December 2, 3.25 P. M.

Consular Bureau
DEC 4 1901

Dec

CONSULAR BUREAU.

No. 473 Confidential Answered

FILE

DIPLOMATIC,
JAN 22 1902
BUREAU.

Consulate-General of the United States, N.N.D.I.

Shanghai Dec 10, 1901.

Mr. Goodnow

To the Department of State.

File

3rd. ASST. SECRETARY.
JAN 14 1902

Subject:

Whangpoo Conservancy.

Ans Jany 21/1902
To Embassies
at Paris & London
Jany 21, 1902

Abstract of Contents.

French obstruction position, in detail.

Confidential

No. 423

Consulate-General of the United States,

Shanghai, Dec. 10th, 1901

Honorable D. J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm my telegram of Dec. 2nd as follows;-

"Whangpoo Conservancy plan blocked. French Consul General says has been ordered not to proceed without definite instructions from the French Government."

In connection with this telegram I desire to call your attention to Annex 17 of the Protocol and to my dispatch No. 408 of September 13th 1901 calling your attention to this Annex, to the membership of the proposed Board, and to the importance of it.

The proposed Board, its composition and the method of its organization, has been under constant informal consultaion among the Consuls and the Community. All seem to be thoroughly in favor of pushing the work except some of the French Colony. The French Consul-General, in the first place, was one of the most active in favor of the immediate prosecution of the scheme. Then came a meeting of the French Colony, at which he was present, and at which resolutions were adopted protesting against the carrying out of the Protocol. Later M. Ratard, the French Consul General, went to Peking to, as he said, consult with his Minister in this matter. Since

his return a month ago he has declared that he could not do anything in the matter at the present time.

At the meeting of the Consular Body December second, I asked each one in turn if he was ready to join in sending out a call to the various electoral bodies to select their representatives at once. All said that they were, except M. Ratard who said that his instructions were not to even discuss the matter until in receipt of further definite instructions from Paris which he thought he might get 'in a month or so'. As a matter of fact he did discuss at length the entire Conservancy scheme as laid out in Annex 17. He maintained that the whole Annex was illegal, as not having been signed specifically by his Minister and as not having been ratified by the two Chambers in Paris. He maintained further that the Board could not take a single step until every member had been chosen. We pointed out to him that that theory would put it in the power of four merchants (half the membership) of the French Municipal Council, by refusing to choose a member, to prevent the Nations of the world from carrying on this important work. He answered that that was so in the opinion of his Minister and himself. He maintained that article XXVIII could not be enforced against a Frenchman, as the method therein laid down for condemning land is not that laid down in the French code. He maintained that article XXIX could not be carried into effect as it is contrary to the deeds (perpetual leases) in the French settlement.

He maintained that article XXX Sections A and B can not be enforced against a Frenchman unless specifically approved by athe French Chamber of Deputies. He maintained that no regulations of the Board as provided for in article XXXVll could be binding on any one unless approved by every member of the Consular Body in Shanghai. In all these matters M. Ratard said that his Minister entirely agreed with him.

I have written you thus fully in order that you may understand my belief that, for some reason to me unknown, the French Government has decided to obstruct and if possible prevent this work. In the meantime, the Whangpoo river is silting up very fast. I went a few days ago with General Sharretts to call on the British Minister, who was on a Warship in the YangtseRiver. We wew in a tug drawing twelve feet. We touched the mud at the woosung bar. I do not believe that there has been so little water on the bar at any time before during the past four years.

On December second, the representatives of England, Germany, Belgium, and Denmark wired to their Governments as I wired you. The japanese representative has written his Government fully.

As M. Ratard claims to be acting under direct orders from his Government, we can not induce him to do anything. If you desire the work to go ahead, you must bring influence to bear upon the French Government direct.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 11

DIPLOMATIC BUREAU
RECD
JAN 15 '02
DEPT OF STATE

Consulate-General of the United States,

Shanghai Dec 16, 1901.

Mr. Gordon

To the Department of State.

Ack by from Jany 28/02
Note
Ack

Subject:

Marriage F W. French and
Ada L Bonnell -

Acknowledge

Abstract of Contents.

Enclosing certificates in duplicate

2

Consular Bureau
JAN17 1902

CONSULAR BUREAU.
NOTED

No. 4

Consulate-General of the United States,

Shanghai, Dec. 16th, 1901190 .

Honorable D. J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to hand you herewith (in duplicate) certificate of Marriage of Fred W. French and Ada Lilian Brownell.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Consular Office of the United States of America

SHANGHAI, CHINA December 13th 1901.

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this 13th day of Dec A. D., 1901, at the residence of R. E. Lewis Esq. in the city of Shanghai China: Fred. N. Finch, aged 27 years, born in Monmouth, Ill. and now residing in Shanghai China, and Ada Lillian Bronnell, aged 23 years born in San Francisco Cal and now residing in Shanghai China, were United in Marriage before me, and in my presence, by Archdeacon Thompson, who is authorized by the laws of New York to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this thirteenth day of December, A. D. 1901, and of the Independence of the United States the 126th

[L. S.]

John Goodnow
Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



Consular Office of the United States of America

SHANGHAI, CHINA December 13 1901

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this 13th day of Dec. A. D., 1901, at the residence of R E Lewis Esq in the city of Shanghai, China: Fred W Fruch, aged 27 years, born in Monmouth Ills. and now residing in Shanghai China, and Ada Lillian Bronnell, aged 23 years born in San Francisco Cal, and now residing in Shanghai China, were United in Marriage before me, and in my presence, by Archdeacon Thompson, who is authorized by the laws of New York to perform such a ceremony.

In Witness Whereof *I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this* thirteenth *day of* December, *A. D. 1901, and of the Independence of the United States the* 126th

[L. S.]

John Goodnow

Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



DEPT. OF STATE
JAN 15 1902
DIVISION OF
RECEIVED

3rd. ASST. SECRETARY.
JAN 18 1902

No. 424

Consulate-General of the United States,

Shanghai Dec 17, 1901.

Mr. Goodnow

To the Department of State.

Acted. Jan 20'02

Subject:

Leave of absence.

Abstract of Contents.

application for 60 ds in 1902

Consular Bureau.
JAN17 1902

No. 424

Consulate-General of the United States,

Shanghai, Dec. 17th, 1901 190 .

Honorable D. J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

I would respectfully ask to be permitted to be absent from my Consular District sixty days during the year 1902; such leave to be taken at such time and for such length of time in each case as may fit in with the business here. I would also ask that such leave shall contain permission to visit the United States. I received leave in December 190o to visit the United States and spent thirty days in the United States, during January and February 1901.

I do not know definitely that I will be away from this place during the year; but ask, as heretofore, for leave available at my discretion during the year. It may be possible that I will want to come to the United States in October.

I am, Sir, Your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU.
ACKNOWLEDGE,
BUREAU OF ACCOUNTS.

No. 425

Consulate-General of the United States,

Shanghai, Jan. 16th 190 2.

Mr. Goodnow,

To the Department of State.

Draft forwarded to Treasurer U.S. & sent to auditor by Bur of Accts Feb 26, 1902.

Subject:

Sale of Consular Fixtures.

Abstract of Contents.

Enclosing drafts and memoranda of sale of office fixtures.

MEMORANDUM.

D Draft on New York GB 35 46

at ex 63 7/8 Shanghai, Tls. 55 52 / 75 58 / 75 54

for which amount please send cheque or C/o.

HONGKONG & SHANGHAI BANKING CORPORATION.

Shanghai, 4 Oct 1901.

MEMORANDUM.

D / Draft on Newyork GB 15 20

at ex 61 1/8 Shanghai, Tls. 24 86 / 73 58 / 33 83

for which amount please send cheque or C/o.

HONGKONG & SHANGHAI BANKING CORPORATION.

Shanghai, 14 / 11 / 1902

No. 425

Consulate-General of the United States,

Shanghai, Jan. 16th, , 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

As instructed in your No. 295 of November third, I hand you herewith draft 37/644 endorsed to the order of the Secretary of State for U. S. G. $35.46 with valuation by Noel, Murray & Co. of Fixtures therefor sold and memo of Hongkong-Shanghai Bank showing the conversion into Gold.

I also hand you draft 38/36 for U. S. G. $15.20 with same endorsement and bank memo. The latter draft is for the flag staff which was on the building No. 12 Kiukiang Road. This flag staff was of no value to us and I could not sell it for any price to a person who would have to take it down. The new tenants of the building offered taels 25 for it as it stood, which offer I accepted.

I hope these transactions meet with your approval.

I am, Sir, your obedient servant,

John Goodnow

(5 encs.) Consul General.

Valuation of Gas Fittings made by the
signed by order of U.S.A. Consulate General

	___ Entrance ___		
1	Gas Pendant	1	.
	___ Office ___		
2	Double Gas Brackets & globes	4	.
1	Single do. do.	.	50
1	2 burner gas Pendants & globes	5	.
	___ Post Office ___		
1	4 burner gas Brackets & globes	3	.
	___ Lower Hall ___		
1	gas Pendant	2	.
1	Incandescent Drop Light	1	.
	___ Compradore Room ___		
1	2 burner gasalier	1	50
	___ Shipping office ___		
1	2 Burner gasalier & globes	5	.
3	gas Brackets	1	50
	___ Hall ___		
1	gas Pendant	1	.
	___ Drawing Room ___		
2	3 burner gasaliers & globes	10	.
	___ Consul Room ___		
1	Incandescent Bracket	1	.
1	~~Movable Light~~	3	50
	Land office		
1	2 burner gasalier & globes	3	.
1	gas Bracket (Upper Hall)	1	.
		Forward	44 .

Inventory of Ten Sitting made by the
assigned by order of U.S. Consulate General

	Brought forward		
	Dining Room		
1	4 burner Jasalea & Chimneys	4	50
1	pr Jas Brackets & do	3	.
1	Incandescent Drop	1	.
	Bed Room		
2	Jas Brackets & Chimney	1	50
1	do & do	1	.
2	do & Globes	2	.
	Kitchen		
1	Jas Bracket &		25
	Sail		
1	Jas Pendant & Jas Bracket	2	.
		$ 59	25
			50
			59 75

E & O E

Shanghai, 29th July 1907.

Noel Munro & Co
Appraisers & Auctioneers

COPIES MADE.

RECD. FEB 10 '02

No. 426.

Consulate-General of the United States,

Shanghai, Jan. 18 1902. , 190 .

Mr. Goodnow

To the Department of State.

To Treasury for views

To Treasury Feb. 20, 1902.

Subject:

Chinese to St. Louis Exposition.

Abstract of Contents.

Ask instructions as to form of certificate of three wood carvers going to the Exposition.

Bureau of Customs FEB 19 1902

No. 426

Consulate-General of the United States,

Shanghai, Jan. 18th , 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Three wood carvers from Ningpo desire to go to the St. Louis Exposition next year to exhibit their wood carvings and illustrate their methods. They expect to sell the carvings they make there during the Exposition.

I would respectfully ask instructions as to what form of certificate I should give them enabling them to land. They will return to China directly after the close of the Exposition.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

RECEIVED
FEB 19 1902
DEPT OF STATE

No. 427

Consulate-General of the United States,

Shanghai, Jan. 21st, 1902.

Mr. Goodnow,

To the Department of State.

Ans
Feb 25
1902

Subject:

Goods for St. Louis Exposition.

Abstract of Contents.

Asking instructions regarding Tariff on

No. 427

Consulate-General of the United States,

Shanghai, Jan. 21st, , 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I would respectfully ask instruction on the following points so that I may answer inquirers.

Will goods for exhibit at the St. Louis Exhibition be admitted free of duty? If so, in what way?

If goods are admitted free to the Exhibition, will the Exhibitor be allowed to see them in the United States later, or during the Exhibition, on payment of duty? sell?

I would ask as full instruction as possible in regard to the handling of goods for the Exposition as regards our Tariff laws.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU.
NOTED.

CONSULAR BUREAU.
3rd. ASST. SECRETARY.
FEB 20 1902

No. 1

Consulate-General of the United States,

Shanghai Jan 21, 1902.

Mr. Goodnow

To the Department of State.

Note recd
Ackd by Loomis
March 26/02.

Subject:

Marriage of Loveley
& Margaret Macpherson

Abstract of Contents.

Certificate (in duplicate)

CONSULAR BUREAU.
FEB21 1902

No. =

Consulate-General of the United States,

Shanghai Jun 21, 1902.

Honorable H H D Peirce

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith in duplicate marriage certificate A.D. Loveday and Margaret Macpherson.

I am, Sir, your obedient servant

John Goodnow

Consul General

CONSULAR BUREAU.
NOTED

Consular Office of the United States of America

SHANGHAI, CHINA, Jany. 21. 1902

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this twenty first day of January A. D., 1902, at Church of Our Saviour in the city of Shanghai, China; Albert Owen Looley, aged thirty two years, born in Springfield, Ills. and now residing in Tientsin China, and Margaret Magheson, aged thirty two years born in Philadelphia, Penn, and now residing in Shanghai, China, were United in Marriage before me, and in my presence, by Rev. B. L. Ancell, who is authorized by the laws of United States to perform such a ceremo

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this twenty first day of January, A. D. 1902, and of the Independence of the United States the One hundred and twenty sixth

John Goodnow

Consul-General of the United States of America.

Fee one dollar. To be issued in dupl



CONSULAR BUREAU.
NOTED.

Consular Office of the United States of America

SHANGHAI, CHINA Janu 21. 1902

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this twenty first day of January A. D., 1902 at Church of Our Saviour in the city of Shanghai, China: Albert Owen Looley aged thirty two years, born in Springfield, Ills. and now residing in Tientsin China., and Margaret Macpherson, aged thirty two years born in Philadelphia Penn, and now residing in Shanghai, China, were United in Marriage before me, and in my presence, by Rev. B.L. Ancell, who is authorized by the laws of United States. to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this twenty first day of January, A. D. 1902, and of the Independence of the United States the One hundred and twenty sixth

John Goodnow

Consul-General of the United States of America.

Fee one dollar. To be issued in



INDEX BUREAU RECD. FEB 19 1902

No. 428

3rd. ASST. SECRETARY. FEB 20 1902

Consulate-General of the United States,

Shanghai, Jan. 21st, 1902, 190 .

Mr. Goodnow,

To the Department of State.

To Russia Feb. 21. 1902.

Subject:

Telegrpahic Communication with Newchwang.

Abstract of Contents.

Enclosing copy of dispatch to Mr. Conger.

INDEX BUREAU DEC 11 1902 FILED

No. 428

Consulate-General of the United States,

Shanghai, Jan. 21st, , 190 2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my No. 375 of this date to the U. S. Minister at Peking, being a report telegraphic Communication between this Port and Newchwang.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 379

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, Jan. 21st 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

I beg to hand you herewith ~~two~~ copies of letters received from the American Trading Co., with inclosures, and a letter from the American Association of China with regard to the telegraph communication between Shanghai and Newchwang.

On January third I wired Consul Miller in cipher simply asking him to acknowledge receipt of my telegram. On the ninth he acknowledged the receipt also in cipher which I received on the 10th. The Chinese telegraph line refused to receive even a Government message in cipher for Newchwang.

Yesterday I was enabled to find out the full history of the cable troubles there which I send you for your information and such action as you deem proper. The Chinese telegraph and the Great Northern each have ~~their~~ its own line to Chefoo. Thence to Port Arthur they both use the cable operated by the Great Northern. After the trouble in 1900 the messages were sent from Port Arthur to Newchwang by the Railway telegraph, with only the condition that cipher messages from Chinese would not be transmitted. About six months ago the Great Northern was notified that the service from Port Arthur to Newchwang would be done by the Field Telegraph, a military institution. And that the railway telegraph would be no longer

COPY.

allowed to take any other than Railway telegrams. The Field Telegraph at once notified the other Telegraph comapnies that no cipher messages will be transmitted from any source. The Great Northern Telegraph co. at once protested to St. Petersburg and now has been informed that the Field Telegraph will transmit Governmental cipher despatches, but will not transmit dispatches in cipher from any other than Government officials. So the matter stands at present.

I desire to call your attention to the inconvenience thus occasioned to our merchants who do an extensive Trade at Newchwang. It seems to our people here, also that this emphasizes the Russian occupation of Newchwang.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Copy.

January 6th, 1902.

The Joint Telegrpah Co.

Present.

Dear Sirs:

In reply to your memorandum of Jan. 6th., we note that our message of the 3rd inst. addressed "Napoleon" Newchwang" has been undelivered. Will you kindly send a service message changeing the name of "Napoleon" to the "American Trading Co."

We have been using this address for our Newchwang office for several years and we despatched a wire on the 24th December 1901, and although the receipt of the message has not yet been acknowledged by letter, we believe it must have been delivered as you have not advised us to the contrary.

On the 25th of November 1901, we despatched a telegram addressed "Napoleon-Newchwang" which has been duly received.

We will be greatly obliged, if you will fully inform us regarding the present telegraphic service at Newchwang, and whether any restrictions have been placed on messages sent from Newchwang, and furthermore, if the Russian authorities are exercising any control on messages sent or received at that Port.

Thanking you in advance for any information you can give us, we remain, Dear Sirs,

Yours faithfully,

THE AMERICAN TRADING CO.

(signed) Frank P. Ball,

Acting agent.

COPY.

Shanghai Station,

Jan. 6th, 1902

The A. Agent,

The American Trading Co.

Present.

Dear Sir:

In reply to your letter of even date, I beg to say that a service has now been sent, at your cost, expalining that your telegram of the 3rd inst., addressed "Maploeon-Newchwang" is intended for "The American Trading Co."

As regards the delivery of your telegram of the 25th of November, and the non delivery of your telegram of the 3rd inst., the explanation is probably that on the first of December last, the Administration of the Telegraph line beyond Port Arthur was transferred from the Russian Railways to the Field Telegrpahs.

As to restrictions placed to and from Newchwang, I am only aware of the fact, that messages in cipher i.e. containing groups of figures with secret meaning, are not acceptable by the Field Telgraph Administration.

I am, Dear Sir,

Yours faithfully,

(signed) J. Berner,

Manager.

Copies of Letters.

Shanghai, Jan. 7th, 1902

Hon. John Goodnow,

Consul-General for the United States,

Shanghai.

Sir:

We beg to enclose herewith a press copy of a letter written by us to the Joint Telegraph Co., Shanghai, and we also enclose their reply (original) From the last paragrpah of the Joing Telegraph's Co's reply you will note that messages in cipher are not accepted by the Field Telegrpah Administration. This, at the present moment, we understand, is an entirely Russian service. We have it on the very best authority that no telegrams to Newchwang are received by the Chinese Telegraph service unless written in plain English. As we are not aware that Newchwang is Russian Territority, we are anxious to know by what right the Russian Authorities, who now control, so we understand it, the telegraph service at that port, refuse to accept telegrams in cipher or secret code. We may say that this Censorship of Telegrams is extremely detrimental to our trade as American merchants, and we would kindly ask you to assist in the relieving us from the present unfortunate position.

In a word the present situation seems to be this, that telegrams are not allowed to leave or be received at Newchwang unless written in a form acceptable to the Russian authorities.

Respectfully requesting your assistance in this matter, we remain,

Yours faithfully,

The American Trading Co.

(signed) Frank P. Ball,

Acting agent.

COPY .

Shanghai, Jan. 13th, 1902

Hon. John Goodnow,

Present.

My dear Mr. Goodnow:

Following up my respects to you of the 7th inst., I now beg to hand you copy of letter received from the Joint Telegraph Co. which may prove of interest.

I remain,

yours faithfully,

Signed) Frank P. Ball

THE GREAT NORTHERN TELEGRAPH CO. LIMITED, OF COPENHAGEN

THE EASTERN EXTENSION AUSTRALASIA & CHINA TELEGRAPH CO., LTD.

Shanghai, Jan. 10th, 1902

The agent,

American Trading Co.,

present.

Dear Sirs:

We beg to inform you that we have received a service advise to the effect that your telegram of the 3rd inst., addressed "Napoleon-Newchwang" was delivered yesterday at 4 P. M. to the American Trading Co. The delay in delivery is due to an interruption of the Russian Field Telegraph Line.

Yours faithfully,

for Manager (sgd) O. N.

COPY:

THE AMERICAN ASSOCIATION OF CHINA.

Shanghai, Jan. 14th, 1902

John Goodnow Esq.,

Consul General, U. S. A.

Shanghai.

Sir:

The attention of this Association has been called to the fact that telegrams destined to, or emanating from Newchwang are not accepted for transmission by the Imperial Chinese Telegraph Administration when the messages are tendered in cipher or secret code.

So far as we have knowledge, Newchwang is the only Chinese Treaty port with reference to which such a regulation is in force andit is not only very objectionable to our commercial institutions, but to a certain and very perceptible extent acts in restraint of Trade. We therefore earnestly request that you will be so good as to represent the matter to Minister Conger and to the Director general of the Imperial Chinese Telegrpahs with a view to the early restoration of a normal service.

It is the understanding of this association that the Chinese lines between Shan-hai,kwan and Newchwang hav been inoperative ever since the outbreak in 1900, and that the present telegraphic route to Newchwang is via Chefoo, Port Arthur, and thence by Russian Field service. To the latter we owe the present situation. Not only has this service refused to transmit messages except they be in plain language, but the delays occasioned by it have been both vexatious and expensive; important messages in some instances having been as much as a week in transmission between Shanghai and Newchwang.

This very unsatisfactory state of the present

service might be easily rectified by the Restoration of the Chinese lines. With the exception of forty or fifty miles beyond Shan-hai-kwan the entire Chinese service is in good working order between this port and Newchwang. We are advised, however, that when the Chinese Administration has sent out workmen to repair the line they have been repeatedly prevented by the armed forces of the power now in temporary occupation of Manchuria.

It is therefore the earnest wish of this Association that every effort be made to secure the early restoration of the Chinese telegraphic service between the ports above mentioned.

The manner in which the telegraphic service has been dwelt with by those who now control it in Manchuria is suggestive as indicating the subtility of action which would doubtless be ceaselessly encountered were the present Russian occupation to result in permanent control.

Assured that the importance of American interests in the Provinces of Manchuria will commend this matter to your careful consideration and action,

I am, etc., etc .,

Signed) V. G. Lyman,

Secretary.

No. 429

3rd. ASST. SECRETARY.
MAR 1 1902

Consulate-General of the United States,

Shanghai, Jan. 23rd , 190 2

Mr. Goodnow,

To the Department of State.

To War Dept. March 7-1902
Ans Apr 2 2/02

Subject:

Arms and ammunitions for Consulates in China.

Abstract of Contents.

Recommending Consul Fowlers 437 except for Shanghai.

See 437 Jany 18/02 from Chefoo

Sent letter Mar 29/02 for Ch. of Ordnance War Dept

Consular Bureau.
MAR 4 1902

No. 429

Consulate-General of the United States,

Shanghai, Jan. 23rd, 190 .2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to Consul Fowler's No. 437 of Jan. 18th, 1902 asking that arms and amunition be deposited at each Consulate in China;- I beg to request and recommend that this be done in all Consulates except in Shanghai.

In the outports the number of foreigners is small; and in case of trouble foreigners from the Interior, mostly missionaries, would flock to the Consulates and ordinarily be without arms or ammunition. If you can see you way to making the Consulates little arsenals it will add much to the feeling of security of the residents in the Consular districts and will tend to prevent disorder by the mere fact that the Consulates are prepared for defense.

At Shanghai the conditions are different. There are constantly men-of-war in the harbour; we have a fairly equipped volunteer force; and the Consulates can not be the centres of defense as are the Consulates in the outports.

I am, Sir, your obedient servant,

Consul General.

RECEIVED
FEB 27 1902
DEPT OF STATE

CONSULAR BUREAU.

ACKNOWLEDGE,

3rd. ASST. SECRETARY.
MAR 1 1902

No. 430

Consulate-General of the United States,

Shanghai Jan 29, 1902.

Mr. Woodward

To the Department of State.

Subject:

Treaty Revision.

Copied by form Mar. 5, 1902.

Abstract of Contents.

Ack. tel. appointing; Inviting form letter to Mr Conger asking his plans.

Consular Bureau
MAR 3 1902

CONSULAR BUREAU
ACKNOWLEDGE

No. 430

Consulate-General of the United States,

Shanghai, Jan. 29th, 1902 , 190 .

Honorable John Hay,

Secretary of State,

Washington, D. C.

Sir:

I beg to acknowledge receipt of your telegram of January 22, received here Jan. 23, as follows;-

"You are associated with Minister Conger and John F. Seaman of Shanghai in negotiations for revision of Treaty of Commerce. The Minister has been instructed to notify the Foreign Office. Further instructions and full powers will be sent by mail. (signed) John Hay."

I will do all in my power to just ify the appointment.

Upon receipt of your telegram, I wrote Mr. Conger, repeating to him your telegram, and saying

"The English Plenipotentiary, Sir J. L. Mackay, is now negotiating with H. E. Sheng Tajen for a revision of the British Treaty. He has charge of their tariff revision and also of the rev ision of the Treaty, and is spending more time on the Treaty than on the Tariff. I will notify you as promptly and as fully as possible of what he is doing, although he is working a s secretly as possible. Apparently these negotiations are to be carried on primarily with Sheng, who says that he has full powers. Will it be possible for you to come to Shanghai? Sir James Mackay has just rented a house for a year; and says fmx that from present appearances he will be here that length of time. Do you not think it would be very advisable

Shanghai, Jan. 29th, 1930

John Hay,

[illegible]

I beg to acknowledge receipt of your telegram of January 28, received here Jan. 29, as follows:-

"You are associated with Minister Cooper and John K. Davis of Shanghai in negotiations for revision of Treaty of Commerce. The Minister has been instructed to notify the Foreign Office. Further instructions and full powers will be sent by mail. (signed) John Hay."

I will do all in my power to just fly the negotiations. Upon receipt of your telegram, I wrote Mr. Cooper, [illegible] to him your telegram, and saying

"The English Plenipotentiary, Sir [illegible] Hubert, is now negotiating with H. E. Wang Tajen for a revision of the British Treaty. He has charge of their Tariff revision and also of the new laws of the Treaty, and is spending more time on the Treaty than on the Tariff. I will notify you as promptly and as fully as possible of what is doing, although he is working a seventy as possible. Apparently there negotiations are to be carried on primarily with Wang, who says he has full powers. Will it be possible for you to come to Shanghai? Mr. Debea Manley has just received a house for a year; and says Mrs. Debea [illegible] [illegible] time. Do you see think it would be very undesirable

for you to come here at the time when the instructions from the Department will reach here, so as to arrange a plan of action? If this is not possible, will you please write me fully as to your plans in this matter."

I am, Sir, your obedient servant,

John Goodnow

Consul General.



No. 431



Consulate-General of the United States,

Shanghai Jan 24, 1902.

Mr. Goodnow

To the Department of State.

Ack + file
Ack by tel.
Mch 13/02

Subject:

Whangpoo Conservancy.

Abstract of Contents.

Mr Cooper states that French objections have been removed, Viceroy now objects.

Geschützt durch Urheberrecht

No. 431.

Consulate-General of the United States,

Shanghai, Jan. 27th, 1902. , 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my #423 of Dec. 10, re the objections of the French Consul General to the Annex 17 to the Peace Protocal;-I have today received the following from Mr. Conger;-

"The objections of the French Government to the organization of the Whangpoo Conservancy Board have now, I believe , been entirely removed by a declaration of the Committee which prepared the scheme, approved by the Diplomatic Corps, that Articles XXVIII and XXIX and Par. "b" of Art. XXX, of Annex #17 to the final Protocol, apply exclusively to lands outside the Foreign Concession. Inconsequence of this declaration, the French Minister inrorms us that the French Consul General will now be instructed to take part with his Colleagues in their efforts to perfect this organization."

The French Consul General informs me that he has been instructed to join with us as soon as I receive as Senior Consul an official letter from the Doyen of the Diplomatic Corps conveying the agreement as given above.

Yesterday I received a message from the Viceroy at Nanking asking me to come to Nanking to discuss with him his objections to the scheme. I expect to see him Feb. 2nd, and think I can satisfy him. He has

to furnish half the money to be expended. He and the late Li Hung-chang were bitter enemies; and, he says, Li did not consult or even notify him of the matter. He is however a reasonable man, and will be satisfied if I can show him that in practice China's territorial rights will not be violated except as absolutely necessary for the work, and only for the time that the work continues.

I am, Sir, your obedient servant,

John Goodnow.

Consul General.

-doing work bitter enemies; and, he
by his not coming or even notify him of the
discovery a responsible man, and will
that it can show him that in practice
territorial rights will not be violated
necessarily proceeding for the work, and only
as long as the work continues.

I am, Sir, your obedient servant,

Consul General.

282.

ASSISTANT SECRETARY,
FEB 6 1902

TELEGRAM RECEIVED IN CIPHER.



From Shanghai,
February 5, 1902.
Received 11.50 A. M.

To Mr. Rockhill,
Feb. 6, 1902.
Confirmed Feb. 10, 1902

Secretary of State,
Washington.

Visited Nankin February second at the request of the Viceroy. He says he will not carry out Annex 17. Have telegraphed Mr. Conger there should be great pressure from Government of China.

GOODNOW

CHIEF CLERK,
FEB 5 1902
Department of State.

Ciphered by JRB, Chief Clerk's Office, February 5, 12.21 P. M.

No. 432.

Consulate-General of the United States,

Shanghai, February 5 1902. , 190 .

Mr. Goodnow.

To the Department of State.

Ans mch 13/02

Subject:

Huangpu Conservancy.

Abstract of Contents.

Confirming telegrams.

Consular Bureau.
MAR 7 1902

No. 432

Consulate-General of the United States,

Shanghai, Feb. 5th, 1902, 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

The following telegrams are hereby confirmed.

"Washington, Feb. 4th, 1902. American Consul, Shanghai. The United States Minister to China wires French objections to Whangpoo Conservancy scheme have been satisfactorily arranged and no other objections (to the) organization known at Peking. (signed) Peirce."

and my reply,

"Shanghai, Feb. 5, 1902. Secstate, Washington. Visited Nanking Feb. 2nd at the request (of the) Viceroy. He says he will not carry out Annex 17. Have telegraphed U. S. Minister there must be great pressure from the Government of China. (signed) Goodnow.

I am writing a detailed report to Mr. Conger in the matter and hope to get completed in time to get a copy of it to you in this mail.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No.

No. 433

Consulate-General of the United States,

Shanghai Feb 7 — 1902.

Mr. Goodnow

To the Department of State.

Instruct b.g. in accordance with marked paragraph Ans March 13. 1902

Subject:

Riot Commencement

Abstract of Contents.

Enclosing despatches to Legation and N.C. Daily News editorial.

Consular Bureau.
MAR 7 1902

No. 433

Consulate-General of the United States,

Shanghai, Feb. 7th, 1902 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my 385 to the U. S. Legation which is a report of my visit to Nanking to discuss the Conservancy Board with the Viceroy. I also hand you herewith (in duplicate) an editorial in this mornings N. C. Daily News on the attitude of the Yangtse Viceroys at the present time .

I am, Sir, your obedient servant,

John Goodnow

(3 incs.) Consul general.

Enclosure, Feb. 7th, 1903

H. K. D. Peirce.

I send you herewith copy of my 583 to the U. S. Legation which is a report of my visit to Quantico to discuss the Commissary Board with the Minister. I also send you herewith (in duplicate) an Editorial in this morning's N. Y. Daily News on the relations of the Vaughts existing at the present time.

I am, Sir, Your obedient servant,

Chas. J. Peirce
Consul General.

No. 385

Copy

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI Feb. 7th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

Referring to my 384 I have to report further in detail. On Jan. 30th the Shanghai Taotai called on me, and said that the Viceroy was objecting to Annex 17, and asked me to go to Nanking and talk it over with him. Accordingly I went to Nanking, taking Dr. Wykes as my Interpreter. On Feb. 2nd, I had a long interview with H. E. Liu Kun-yi. The Viceroy said very emphatically "I will not carry out the provisions of Annex 17. If they must be carried out, the Chinese Government must send some one else to do it." As nearly as I could gather, he had come to this conclusion from two reasons.

1- He holds that the general tenor of the Annex is to give up the sovereignty of China over the territority included in the operations of the Board; say,- four miles wide and fourteen miles long. On this point he especially objects to paragraph 13 which gives to the Board a certain authority over all creeks entering into the Whanggpoo River for two miles above their mouths. He also objects to paragraphs 28 and 29, which provide for the condemnation of land. He objects to tax "b" of paragraph 30; and in fact to all taxes on Chinese owned land for the purposes of this Board. But over and above his objections to specific points he objects to the entire tenor of the Annex as destructive of the sovereignty of China over the Whanggpoo River.

2

2- The Viceroy seemed to be moved in this matter largely by resentment. He said to me that he had stood by the foreigners as their faithful friend during the troubles of 1900; that, but for him, the trouble would probably have extended over all Central China. To all of this I assented, as it was fact. The Viceroy said that in repayment of his friendliness he had received several things he did not want.

He said that Admiral Seymour came to him in 1900 and said that the Americans were about to land troops in Shanghai; that accordingly, the British must land troops to protect their greater interest; that as the Americans were about to land he (the Viceroy) could not object to the British landing; that now, in consequence of that landing, there were troops of four nations in Shanghai as though it were a conquered town; and the foreign governments refused to remove these troops.

He said that the great bulk of the annual payment of the indemnity must be paid by the Provinces which were friendly to us in 1900.

He said that he had not been consulted at all with regard to Annex 17 until after its completion, although it only affects a Province in which he is "supreme". Should he attempt to carry it out, he must raise Taels 250,000 per annum which he could not raise as the people are now taxed to their limit; that he must allow this foreign Board to collect taxes from Chinese outside the settlement. He would thus be put in the position of overtaxing his people and giving away the sovereign rights of China, although he had never been consulted in the matter.

He said that after the conclusion of the protocol the English Consul (Acting Consul General Bourne) brought him the text of the Protocol and Annexax and talked to him in a "high and severe manner" as "from a conquerer to a subject". This the viceroy seemed to resent extremely as he referred to it many times. I have gone into his talk somewhat in detail as I am firmly convinced by what he deemed lack of consideration.

I told him that the American Government never intended to land troops in 1900 and that Admiral Seymour had no basis for any such assertion; and that now the American Government is doing all in its power to obtain a simultaneous, friendly, evacuation. I said that the protocol had been made with the duly accredited plenipotentiaries of China and that it was impossible for our Peace Commissioners to go past the Central Government and its plenipotentiaries to the various Viceroys; that the faith of the Central Chinese Gov rnment is now pledged to carry out the Protocol and its various Annexes, and that his complaint should be to his own Government against its own representatives. He gave me to understand (what I know to be the fact) that he and Li Hung-chang were almost life long enemies; and that Li probably cared very little what difficulties the Annex might raise for the Viceroy at Nanking.

The Viceroy was very friendly throughout the interview, but had evidently felt himself aggrieved against the foreign Nations; and welcomed the opportunity to say what was inhis mind.

On my return from Nanking I wired the Legation and the Department.

Immediately on my return H. E. Sheng and the Shanghai Taotai came to see me to hear the result of my visit to Nanking. They were very much cast down; but later came to see me to say that, with the Governor at Soochow, they hoped to be able to brign Chinese influence to bear on the Viceroy to make him change his mind. They asked me to hold myself in readiness to go to Nanking again or to Soochow to again discuss this matter as, they said, I am friendly and have influence over the Viceroy. I accordingly telegraphed you ~~and to the department~~

"Taotai Shanghai and Sheng are organizing Shanghai Chinese who will probably influence the Viceroy in the matter of Conservancy".

Matters are now at a standstill on account of Chinese New Year. I will keep you throughly informed of further developements in the matter.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

The
North-China Daily News.

IMPARTIAL NOT NEUTRAL.

SHANGHAI, 7TH FEBRUARY, 1902.

THE ATTACK ON SIR ROBERT HART.

WE published in our issue of the 3rd instant a translation of a telegraphic memorial from the Yangtze Viceroys containing a serious attack on the Inspector-General of Customs, Sir Robert Hart. It is the last thing we should have expected from two such enlightened statesmen as the Viceroys Liu K'un-yi and Chang Chih-tung, and this is another proof of the superficiality of our acquaintance with the Chinese mind. The grievances on which they insist are that the Imperial Maritime Customs is taking away from them the control of the postal service in the interior and of the principal Native Custom-houses; and though they must know perfectly well that the Imperial Maritime Customs is in all respects a Chinese service, which is primarily only manned by foreigners because its revenues are the main security for the repayment of the money that China has borrowed of the West, and secondarily because foreigners turn in more money to the Treasury than native officials in the same positions would do, these two high officials, whom we have regarded during the past two years as the leading statesmen of China favourable in every way to foreigners, turn round and complain that an important part of the administration of the Empire is being handed over to "outsiders." They say:—"Of late Hart, making the payment of the War Indemnity his excuse, has brought within his control the Native Customs and also desires to encroach upon other Customs departments and bureaux. He now orders his Customs Commissioners to go into the interior to extend the I. C. Post. In a word, his intention is to drive into his one net the whole of the revenues of China and acquire the supreme control over them. His ambitious designs are indeed dangerous to the State! If steps be not taken as soon as possible to limit his powers, China will be entirely under the control of foreign-born officials, native officials will only be so many 'tipao,' and the masses merely slaves."

This memorial is really an attack on the Peace Protocol, for we cannot believe that these two Viceroys do not know that the transference of the native Customs at the treaty ports to the control of Sir Robert Hart is stipulated for in §2, clause E, of Article VI of the Protocol, by which "the revenues of the native customs administered in the open ports by the Imperial Maritime Customs," are stated as one of the sources from which the indemnity is to be met. Yet the Viceroys make no reference to this, but calmly accuse the Inspector-General of making the payment of the War Indemnity an excuse for his rapacity. With respect to post offices they go still farther, for Sir Robert in pursuance of his reform of the Chinese Postal Service, having asked the Hankow Customs Taotai to issue proclamations preparing the people for the opening of post-offices in certain towns in Hupeh and Honan, they have the temerity to tell the Grand Council that they have ordered the various local officials not to issue the proclamations requested. As Sir Robert Hart's action has of course been taken with the cognisance and approval of the Throne, that is an open defiance of the Government by its two most powerful satraps.

As we have already suggested, this memorial is no doubt partly prompted by jealousy of the promotion of a British subject to the rank of Junior Guardian of the Heir-Apparent (Taitzupao), which puts him on a level with the Viceroys themselves. But it also has a deeper signification. As we predicted would be the case, the Yangtze Viceroys are naturally enraged at having to find the greater portion of the War indemnity, while they did everything in their power to prevent the crimes for which that indemnity is being exacted. It is certain that while things look quiet enough at the moment, there are troublous times ahead for the empire, as the pressure of the burden of the indemnity makes itself felt more and more. With all the talk of reforms, the tangle of ignorance and corruption that calls itself the Central Government has taken no sufficient measures to put the finances of China on a satisfactory footing; and we know that Peking is a greater hotbed than ever of corruption and extortion. What else is to be expected of a Government presided over by the Empress Dowager and her eunuchs and Yung Lu? But it is very depressing too to see that while one of the best things this haphazard administration has done is its recognition of the value of the services to the Empire of Sir Robert Hart, two of its most honest and capable servants are ill-advised enough in this most serious crisis to turn upon the Inspector-General and rend him in a public memorial. It would be an intense relief to find, as is barely possible, that the whole telegram is a forgery.

The
North-China Daily News.

IMPARTIAL NOT NEUTRAL.

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DIPLOMATIC BUREAU RECEIVED MAR 25 1902 DEPARTMENT OF STATE

CONSULAR BUREAU.
PLEASE REPORT.

3rd. ASST. SECRETARY. MAR 27 1902

No. 434

Consulate-General of the United States,

Shanghai Feb 20, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Mr. Pairo says
ack & file
ack by firm Apr 1-1902

in re Prisoners - in the Consular jail at Shanghai

Abstract of Contents.

Confirming telegrams
Recommending conditional pardon
of Alfred Plant.

Consular Bureau MAR 29 1902

No. 434

Consulate-General of the United States,

Shanghai, Feb. 20th, 1902 , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm your telegram of Feb. 19th, received to-day, as follows.

"Telegraph full name of man to be authorized bring three prisoners San Francisco. Derby preferred."

and my reply of this date

"Authorize George A. Derby. Plant's health gone. recommend pardon condition leave China."

This man has a wife and child in Manila; has excellent papers from the Captain of his company; and is not a criminal in intent. His behavior here has been most excellent. He has lost about thirty pounds since his trial, although, on account of his excellent behaviour, I have for several months alloweed him to come and go and to exercise in the sunshine almost at will. In addition, he has had special food as prescribed by a physician, yet he has constantly declined in health. Accordingly I wrote on Feb. 19th to Consul Ragsdale as follows.

"Alfred Plant, confined in this jail on your warrant, has been failing in health constantly since his confinemeent here; having lost at least thirty pounds. I would respectfully suggest and recommend that, on account of his failure of health, you suspend sentence onhim on condition that he leaves and does not return to China.

In my opinion, it is necessary that such above desired action shall be taken or, in all probablility, the man will not survive many months."

For the above reasons I recommend his pardon on condition that he leave China.

In this connection, for your information, I would state that six men were concerned together in the looting. Of these the three Americans received sentence of four years each; the Dane was never even tried; the Englishman was tried and acquitted; and the Chinese, whom Li Hung-chang said had been beheaded, is now in Shanghai.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

17-16

TELEGRAM RECEIVED.

CHIEF CLERK,
FEB 21 1902
Department of State.

From Shanghai

Feb 21, 1902.

Received 2 46 P. M.

Sec State

Washn.

D

ADS'N MAR 7 1902

Authorize George A. Nerby
Plant's health gone recommend
pardon condition leave
China

Goodnow

No. 435

3rd. ASST. SECRETARY.
MAR 27 1902

Consulate-General of the United States,

Shanghai, Feb. 22nd, 1902 , 190 .

CONSULAR BUREAU.
ACKNOWLEDGE,

Mr. Goodnow,

To the Department of State.

Subject:

Amendments to Commercial Treaty, ack by letter 3-31-1902

Abstract of Contents.

Enclosing copy No. 389 to Mr. Conger with account of meeting with American Merchants.

Consular Bureau.
MAR 29 1902

No. 435.

Consulate-General of the United States,

Shanghai Feb. 22 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my #389 to the U. S. Minister at Peking , giving an account of a meeting of Mr. Seaman and myself with American business men to obtain their suggestions as to desirable amendments to the Commercial Treaty.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

one enclosure.

No. 389

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, Feb. 22nd, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

In your 1316 you suggested that we "Consult the leading American citizens at Shanghai". Accordingly on Feb. 17th I wrote J. N. Jameson, Esq., Vice President American Association as follows:

"The members of the Commission to revise the Commercial Treaties with China are anxious to hear the views of the Americans in business in China as to the amendments they deem necessary to the present Treaties.

With this in view, I would suggest to you the advisability of a meeting of your Committee and other American heads of business houses with Mr. Seaman and myself as early as possible this week, to discuss this matter, which is of the greatest interest to all and of importance to the future of American Trade in China."

Accordingly the meeting was called for Thursday, Feb. 20th at 5 P. M. There were present Messrs Jameson, (Wisner & Co.) Pearon (Pearon, Daniel & Co) Roberts (Marine Surveyor) Pott (President St. John's College) Hunt (Standard Oil Co.) Baldwin (Cotton Piece Goods) Dunning (Dunning & Co.) Fobes (Fobes & Co.) McMichael (Frazar & Co.) Rolker (Castle Bros.) Osgood (N. Y. Export & Import Co.) Rev. W. P. Bentley, Lewis, (Sec. Y. M. C. A.) and Lyman, (Sec. American Association.),

There was a general discussion in which all seemed to be unanimous in favoring the proposition that foreigners

should be allowed to purchase land in any part of China and to mine subject to a fixed Royalty per ton payable in lieu of all other taxes. Every one present expressed himself strongly against the supposed proposition originating from the I. M. Customs to the effect that the Customs duty should be raised to an effective 15 % in consideration of the abolition of Likin. It was stated by Mr. Pearon that 93% of the entire amount of Likin collected is collected in Central and South China; and only seven % collected in the provinces of Northern China where 3/4 of our trade lies. It was also the general opinion that in all probability the exactions on the foreign trade in the Interior, should Likin be technically abolished, would continue under other names. It was pointed out that, practically, the immunity of foreign goods from Likin by payment of an extra 2 1/2 % at the seaboard had been nullified in the past by landing taxes and various illegal 'squeezes'.

The meeting adjourned subject to the call of the President.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Signed J T Seaman

Fuhr

3rd. ASST. SECRETARY.
MAR 27 1902

RECD. TO
MAR 25 1902
DEPT. OF STATE

No. 436

Consulate-General of the United States,

Shanghai, Feb. 22nd, 1902.

CONSULAR BUREAU.
ACKNOWLEDGE,

Mr. Goodnow,

To the Department of State.

Ack'd by form
March 31/1902

Subject:

Whangpoo Conservancy.

Abstract of Contents.

Enclosing Advertisement.

Consular Bureau.
MAR 29 1902

No. 438

Consulate-General of the United States,

Shanghai, Feb. 22nd, 1902 , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

As Senior Consul I received from the Doyen of the Diplomatic Body a letter that the differences in the Diplomatic Body had been settled so far as the Whangpoo Conservancy is concerned.

I therefore brought the matter up in the Consular Body, asking it to call for the selection of the members of the Conservancy Board. Some question arising through the French Consul General as to those entitled to vote under Section e of Paragraph IV of Annex 17 of the final Protocol, the difficulty was solved by the insertion of the advertisement which I enclose you herewith in duplicate.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

(2 encs.)

Telegram, Nos. 81and, 1928

No. 81. 3 p.m.

My Senior Command I received from the Doyen of the Diplomatic Body a letter that the difference in the Turkomanian Body was settled so far as the Mandates Commission is concerned.

I therefore brought the matter up in the Executive Body, asking it to call for the selection of the members of the Commission. This question arising through the French Legal Counsel as to steps entitled to vote under Section 2 of Paragraph IV of Annex IV of the Treaty Procedure, the difficulty was solved by the insertion of the advertisements which I enclose for perusal in duplicate.

I am, Sir, your obedient servant,

Colonel Commissioner.

(2 enc.)

Conservancy of the Whangpoo.

PARAGRAPH "4" of Article IV of Annex 17 of the final Protocol reads as follows:—

"deux Membres représentant les intérêts de la navigation admis par les sociétés de navigation, les maisons de commerce et les négotiants dont le trafic maritime, pour le total des entrées et sorties à Shanghai, à Woosung ou dans tout autre port sur le Whangpou, excède cinquante mille tonnes par an;"

The Consular Body desires all those entitled to vote under the above paragraph to send their names and proof of such right to the Senior Consul, No. 30, Whangpoo Road, on or before 12 Noon, March 5th, 1902, in order that an official list of Electors under this paragraph can be then made.

JOHN GOODNOW,
Senior Consul.

5mr 876 Shanghai, 22nd Feb., 1902.

Conservancy of the Whangpoo.

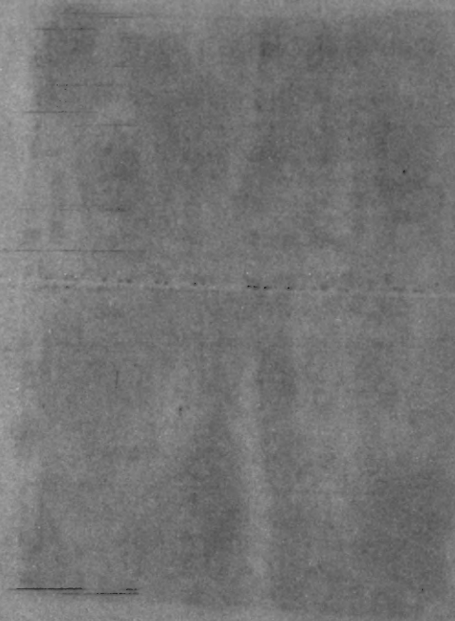
PARAGRAPH "e" of Article IV of Annex 17 of the final Protocol reads as follows:—

"deux Membres représentant les intérêts de la navigation, élus par les sociétés de navigation, les maisons de commerce et les négotiants dans le trafic maritime, pour le total des entrées et sorties à Shanghai, à Woosung ou dans tout autre port sur le Whangpoo, excède cinquante mille tonnes par an;"

The Consular Body desires all those entitled to vote under the above paragraph to send their names and proof of such right to the Senior Consul, No. 36, Whangpoo Road, on or before 12 Noon, March 5th, 1902, in order that an official list of Electors under this paragraph can be then made.

JOHN GOODNOW,
Senior Consul.

5mr 876 Shanghai, 22nd Feb., 1902.



DIPLOMATIC BUREAU
RECD.
APR 3 1902
DEPT. OF STATE

3rd. ASST. SECRETARY.
APR 5. 1902

No. 439

Consulate-General of the United States,

Shanghai Feb 28, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Shanghai Conservancy -

Acked by form
Apr. 10, 1902.

Abstract of Contents.

Enclosing (duplicate) advertisement

Consular Bureau
APR 7 1902

No. 438

Consulate-General of the United States,

Shanghai, Feb. 28th, , 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Acknowledging receipt of your No. 300 of Jan. 23rd, and continuing my 423 of Dec. 10th, 1901, and my 431 of Jan. 27th, 1902, and my 433 of Feb. 7th, 1902, all regarding the Whangpoo Conservancy Board;-I have to say that on receipt of official notification from the Doyen of the Diplomatic Body that Articles XXVIII and XXIX and Par.b of Article XXX of Annex XVII of the final Protocol, only apply to land situated outside the foreign settlements, I called a meeting of the Consular Body to send out a call to the different Electorate to choose their Representatives.

A discussion was started by the French Consul general as to who were qualified under Sec. e Paragraph IV Annex 17 as Electors, he desiring that each Consul should pass on the qualifications of his own Nationals. The Consular Body finally ordered the advertisement herewith enclosed ; and immediately after the 5th of March, will ask the various Electorates to choose their representatives.

I have heard nothing further of the position of the Viceroy in the matter.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

2

Conservancy of the Whangpoo.

PARAGRAPH "e" of Article IV of Annex 17 of the final Protocol reads as follows:—

"deux Membres représentant les intérêts de la navigation, élus par les sociétés de navigation, les maisons de commerce et les négotiants dont le trafic maritime, pour le total des entrées et sorties à Shanghai, à Woosung ou dans tout autre port sur le Whangpou, excède cinquante mille tonnes par an;"

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JOHN GOODNOW,
Senior Consul.

5mr 876 Shanghai, 22nd Feb., 1902.

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JOHN GOODNOW,
Senior Consul.

5mr 876 Shanghai, 22nd Feb., 1902.

No. 439- Confidential

Consulate-General of the United States,

Shanghai March 1, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Tariff- Ans Apr 11/02

Abstract of Contents.

Present situation

Consular Bureau.
APR 8 1902

Confidential.

No. 439

Consulate-General of the United States,

Shanghai, March 1st , 1902

Honorable John Hay,

Assistant Secretary of State,

Washington, D. C.

Sir:

General Sharretts tells me this morning that he has written you saying that he has completed the technical work of the Tariff Commission and asking to be allowed to turn his papers over to the Treaty Commission and to be allowed to come home.

Under these circumstances I think it only right that I should write to you direct and confidentially as to the exact status of the Tariff matter. I am qualified to speak accurately as I have been with him at every meeting he has had with the Chinese officials or with members of the other Commissions except on the occasion when Sheng returned his call and also when Sir James Mackay returned his call. At his request I have taken equal part with him in the various discussions and have been go-between in many matters.

General Sharretts tells me that he has practically completed the various sections of the complete Tariff. He has not discussed its details with any member of any other Commission. Nor has he discussed it with the American Association except in the most general fashion.

The British Commissioner brought a complete Tariff from London and was instructed to urge its adoption without consultation with anybody. He finally agreed to wait for General Sharretts to complete his Tariff and to join with General Sharretts and the French and German

representatives in a Tariff which would represent them all, if possible. General Sharretts has not as yet, shown his Tariff to Sir James Mackay nor has he discussed it with him except in the most general way.

The French Commission has made its preliminary report to Paris, with recommendations on points affecting French interest. No reply has yet been received from Paris and no discussion has been had between General Sharretts and the French Commission as to the various points on which they are likely to differ.

The German Consul General has prepared a complete Tariff. I have urged General Sharretts to see him and come to an agreement if possible; at least, to compare the Tariff as prepared by himself with the Tariff as prepared by Dr. Knappe. This he has not done and told me this morning that he was in no hurry to do this as he expected to go to Nanking about March 15th and then to Peking.

The Japanese Commission has not yet arrived at Shanghai.

I have asked General Sharretts to see the representative of the Netherlands, who is interested in certain articles. This has not been done.

General Sharretts tells me that he has drawn up a Tariff covering all articles and comprising some 300 paragraphs. I have not seen it and I do not know that any one has.

I am writing you very plainly, Mr. Secretary, so that you may understand the exact situation. Should you relieve General Sharretts, we can do the work of the Tariff Commission and we can succeed in it, if success is possible to anybody. The interests of the various Nationalities must be harmonized. I have succeeded so far in working in harmony with all.

The drawing up of the Tariff is the least part of the work. Every Nation here is intensely jealous of every other Nation; and they are all jealous of America in Trade matters. Fortunately your political position makes us friendly politically with China and all the other Nations. The essential and delicate part of our work is yet to come, and consists in bringing the representatives of all nationalities in such friendly and harmonious action that the Chinese authorities will accept their conclusions without protest; and that all the Nations will feel that their interests have been fairly taken care of.

Please understand me that I am willing and proud to take my share of the work as a member of the Commission; but I want you to understand the present unfinished and chaotic condition of the real work. I have done every thing in my power, as General Sharretts has written you, to help General Sharretts in his work. He is an effecient and capable man and I only feel sorry that he does not feel equal in health to the task of completing his work.

When General Sharretts came here it was understood that he was to be a member of the Treaty Commission. Accordingly I gave him my ideas on the subject based on the central proposition of opening up the ownership of land throughout the Empire to all foreigners and including therein the right to mine under suitable Royalties to the Government, beleieving that this virgin resource thus to be developed would tend toward the integrity of China by giving all foreigners rights in all parts in the Empire; would give the Government a new Revenue; and

T. H. -4

T. H. -4(2)-

-2-

The drawing up of the Tariff is the last part of the work. Every Nation has to intensify healthy relations with other Nations, and they are all jealous of Russia to-day. Therefore, Russia's political position was very friendly politically with China and all the other Nations. The essential and initiative part of our work is yet to come, and hopeful in getting the representatives of all nationalities to known friendly and hopeful opinion that the Chinese authorities will accept their proposals; and that all the Nations will feel that their interests have been fairly dealt with.

Please understand me that I am willing and proud to take my share of the work as a member of the Commission. I want you to understand the present unfavourable condition of the real case. I have only acted in my power, as General Secretary and helped General Duncan in his work. He is a very able and capable man and I only feel sorry that he does not appear in reality to the issue of completing his work.

When General Duncan came here it was suggested that he was to be a member of the Tariff Commission. Accordingly I gave him my ideas on the subject based on the central proposition of opening up the country of China throughout the Empire to all foreigners and including therein the right to mine under suitable Royalties to the Government, believing that this virgin resource thus to be developed would tend toward the integrity of China by giving all foreigners rights in all parts in the Empire; would give the Government a new Revenue; and

would relieve the people from taxes and give them increased work and wages. General Sharretts, after consideration, adopted my views and he and I together have talked them to many officials.

I have done my best to help him in his work. If he is unable to complete it, we will carry it on.

I am, Sir, your obedient servant,

John Woodruff

Consul General.

John Brown

3rd. ASST. SECRETARY.
APR 5 1902

No. 440

Consulate-General of the United States,

Shanghai Feb 28, 1902.

Mr. Goodnow

To the Department of State.

Ack'g'd April 11-1902

Subject:

Commercial Treaty.

Abstract of Contents.

Enclosing E.S. Little's pamphlet.

Consulate
APR 8

No. 440

Consulate-General of the United States,

Shanghai Feb. 28 1902. , 190 .

Honorable H. H. D. Peirce

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith for your information copy (in duplicate) of the pamphlet just published by E. S. Little, Esq., a British merchant of Shanghai, on amendments to the Commercial Treaties with China.

I am, Sir, your obedient servant,

John Goodnow
Consul Gener al.

1 enc,

The Chinese Revenue

AND

The New Treaty:

A PROTEST

Against an Increased Tariff from a Merchant's point of view.

WITH SOME SUGGESTED REGULATIONS FOR MINING.

By Edward S. Little.

1902:
"North-China Herald" Office, Shanghai.

[Price Ten Cents.]

The Chinese Revenue and the New Treaty.

By EDWARD S. LITTLE, SHANGHAI.

Present Position.

e results of the Boxer outbreak of ear have now brought us face to face ercially with one of the most criti- ositions in the history of foreign re- s with this country. China stands e parting of the ways. The old trea- are practically in abeyance; this nt Empire stands with the world fac- er.

taff of Commissioners, representing civilised world, are on Chinese repared to make treaties with her. whole ground of international inter- e will be covered by these treaties the history of the next er of a century, if not ly bound up in the treaties now to de, will at any rate be very largely nced by them.

every sense of the term and in all tments of our life the situation is t with immense possibilities. In a ercial sense we are now at the mercy treaty-makers. It is in their power ter and develop trade, and to give t the scope which it needs for the development of the latent possibili- f this great Empire. It is also pos- y a false move to very seriously re- the opening of the Empire, and to r the expansion merchants have so xpected and worked for. A great questions of the most serious import be considered, and the one which at the present moment to occupy rgest share of the official attention is, shall the revenues of China be in- d?" Just at this point danger looms on the horizon, and it is a matter rave concern that the prospects of gn trade shall not be sacrificed to the osed needs of the national revenue.

China is a debtor to all the civilised na- of the earth. She is called upon to mence at once to liquidate these debts, and every month must see a continual stream of money flowing into the various exchequers in Shanghai. At the same time China requires large sums of money for the reorganisation of her own national forces, and for the current expenses of the ordinary departments of Government. From all quarters, Imperial and Provincial, there is a demand for funds. The reply to the demand on all hands seems to be that the Imperial and Provincial treasuries are empty. The Chinese Government have very cleverly promulgated this idea and seek to emphasise the same at all seasons. They would work upon the generous sentiments of the foreign nations, and by the continual cry of poverty, seek to lighten their own burdens, or to throw the same on the apparently willing shoulders of the Great Powers.

Some of the Western nations seem willing to lend a ready ear to this reiterated cry, and are prepared to relieve China as much as possible of the burdens which she herself is well able to bear. It is readily conceded that the national revenues of China must be increased in order to meet her present liabilities. In the opinion of some, at any rate, the only remedy is found in an increased import duty, thus throwing the responsibility upon foreign commerce.

It is seriously proposed in some quarters to request the Chinese Government to abolish likin, and as a compensation and with a view to assisting China to discharge her liabilities to place an import duty of fifteen per cent, or in other words to treble the already heavy duties now levied upon foreign goods imported into the country. This seems to the writer to be a most harmful way of meeting the difficulty and to be highly prejudicial to the interests both of foreigners and Chinese.

A very strong move has been set on foot by which the burden of the indemnity shall be shifted from Chinese to foreign shoulders. The Chinese naturally look with the greatest favour upon a proposition which will bring relief to them, while foreign merchants,apparently not grasping its import, do not seem to have raised any serious protest, but rather in some cases to favour it. If we are prepared to believe that China cannot or will not pay, the Chinese will do everything in their power to keep up this profitable fiction and in the end not only get off scot-free but reap considerable advantages. This will be a rich prize awarded her for the terrible savagery of 1900! She now pleads poverty and inability to pay and seeks to lay upon foreigners the solution of her difficulties and the discharge of her obligations. Let us disabuse our minds at once of the thought that China is unable to meet her debts and at the same time insist that she must herself solve these questions.

China has most grievously transgressed all laws and has been visited with punishment. If we have at heart the lasting welfare of this country we shall permit the inevitable consequences of her acts to fall upon her. As soon as she finds that foreigners are immoveable in their determination she will quickly solve the difficulty. It may be objected that too much stress is laid in this paper upon the idea represented by the word "punishment." It should be carefully borne in mind, however, that although the indemnities levied upon China are to her a punishment in so much as she is called upon to pay considerable sums of money, yet the funds she is most justly required to provide are not sufficient to recoup the actual losses of hundreds of persons who have been made to severely suffer by her Government, and though the word is frequently used it is not employed in a vindictive spirit but in a strictly legal sense and is used to represent the act of repayment, which at the best is only a partial restitution of actual material losses.

Another point should be emphasised at this stage. From all reports that come to hand it would seem that the Empress Dowager and her Conservative advisers are as opposed to foreigners and reform on Western models as ever and that the edicts which have been issued are merely a sham with the object of deceiving foreigners, and should real and effective reforms be granted they are only to be wrung from an unwilling hand. Now is the time when the pressure of the s tion should be made to be felt by the press and her advisers. If the way China to escape her punishment is both easy and profitable by the trans all financial liabilities to Western the day of reform for which we have looking will be indefinitely postpone however, China is compelled to pr the funds that are needful some re must be conceded and we shall be se not only our own interests but the highest interests of China by refusi in any way lighten the charges which been laid upon her and which are i sense of the term heavy. It appears than passing strange that Western tions should inflict the punishment indemnity on a Power like China and themselves discharge the same by l all the burdens upon their own trade should furthermore be remembered the larger portion of the indemnity into the pockets of what may be the non-commercial nations, or at rate the nations which have the least mercial interest in China. The three ing nations, Great Britain, the U States and Germany, are proposing b increase of the tariff to 15 per cent t their commerce in order to satisfy claims of these non-commercial coun upon China. The political aspect of question cannot here be emphas though it seems to be gene conceded that while the mercial nations are not see territorial aggrandisement but si an open field for the development of t commercial enterprises, some of the o nations, notably Russia, backed by Fra are openly demanding the cession of l tracts of the country. By taxing our merce we cripple our own forces in o to strengthen the financial resources nations who have only a trifling com cial stake in the Empire, and who are viously seeking to obtain the political trol if not of the entire Empire at rate of considerable portions of it.

It is conceded at once that the aboli of all inland charges of whatsoever na would be a move very beneficial to t and is a goal to be aimed at, but if t benefit is only to be obtained at the sa fice of foreign commerce or the addition any charge whatever to this trade t the subject at once assumes a differ phase. The arguments advanced in t paper are altogether from this standpo

ly that if likin and similar taxes are e abolished only at the cost of Western merce relief must be sought not in lition of the tax but in an amelioration he scheme. Certain rights were con- d in the Tientsin treaty of 1858 by h foreign goods having paid the d tariffs were to be freed from further inland charges whatsoever. e rights have been filched from by the Chinese through the lness of our political representa- : for nearly half a century we e been defrauded of our just right for- ly secured in a solemn treaty duly rati- , and now after 44 years' constant ggle, the claim is put forward that to in our own we ought to pay still more rily in the shape of increased tariffs, re our demand ca nbe considered. November, 1901, we paid a heavy price he revised tariff, but the Chinese Gov- ment is still unsatisfied and insists on bling even those advanced rates and rs us a more than doubtful advantage ch if conceded to the fullest possible ent is only restoring to us what was s 44 years ago. All the intervening rs of loss are to receive no recompense atever. One cannot but marvel at the dacity of the demand from one party this treaty, and at the weak yielding t has characterised and continues to aracterise the other. These points uld be borne in mind when considering questions dealt with in the pages of paper.

The following points are suggested for sideration:—1st. That likin should t be abolished but regulated. 2nd. That e import and transit duties should not increased beyond their present rate. d. That the revenues of China can be gmented almost indefinitely in the lowing ways:—

(a) By promulgating a liberal code of ining laws.

(b) By a more careful administration of e land tax.

(c) By the natural increase in Maritime stoms.

(d) By the proper regulation of the rious forms of likin.

(e) By additional taxes on native opium.

To take these points up in order.

1st. That likin should not be abolished t regulated:—

I. Objections to the abolition of likin om a Chinese standpoint:—

(a) Likin has now through almost half century become a settled feature in Chinese life, and from it the Provincial Governments obtain a large proportion of their revenue. An attempt to abolish likin has heretofore been met with the most strenuous opposition from the highest officials down. It is quite possible that the officials, hoping to obtain larger revenues from a 15 per cent tariff on foreign goods than from the present scheme of likin, will consent to the innovation suggested. In such a case they have almost certainly formulated in their minds or will eventually discover plans by which they will be able to continue the taxation under new names and by new methods. We should then be in a far more undesirable condition than now, for we shall be saddled with a 15 per cent tax on foreign goods, and still be subject to the machinations of the native Government. In other words the Chinese Government will be definitely assured of a vastly augmented revenue from foreign trade, unless the effect of the incidence of the tariff checks the volume of imports, a probable result which has not entered into their consideration of the problem, and yet they will at the same time have the whole field of inland trade to be exploited as circumstances may direct.

(b) The abolition of likin would throw out of employment vast armies of people and the sudden dislocation so produced would almost certainly involve a serious political outbreak.

(c) Furthermore, there would be no immediate available revenues coming to the provincial treasuries to take the place of those derived from likin. It is, therefore, evident from a purely Chinese standpoint that a serious position would be created which would strain the powers responsible for the preservation of order.

II. Objections to the abolition of likin from a foreign standpoint:—

(a) The abolition of likin, or charges now borne by native produce, would involve, by the proposition before us, the freeing of native produce from all its burdens, and the adding of the same to foreign imports; that is to say, the burden of foreign imports would not only not be lightened but would be largely increased by the transfer to it of the charges now borne by native produce. The effect of this would be for instance in the case of similar foreign and Chinese goods, which are selling at nearly even prices, to cheapen the native goods by the amount of the inland taxes which average say, 15 per cent, and increase foreign goods from 7½ to 10 per cent. By this means a difference of at

least 25 per cent is made at once in favour of the native produce as against the foreign article. This would mean that in many departments foreign trade would be so seriously hampered, that it would involve almost the extinguishing of them. The price of native products would be cheapened, whilst the price of foreign goods would be correspondingly increased, and the Chinese would turn from the expensive foreign article to the cheaper native product. One might illustrate this in a great many cases, but every importer will at once see the truth of the statement and be able to illustrate from his own business.

(b) It has been argued that the increased prosperity resulting from the abolition of likin which would accrue to the Chinese people would enable them to purchase larger amounts of foreign goods. It is certainly true that the increase of trade brings wealth to the people of a country, and that the increased wealth gives greater power to purchase, but this is by no means tantamount to saying that the greater power to purchase out which the Chinese would derive from a developed trade, would be pended on goods imported from foreign countries. Indeed, it is almost absolutely certain that the result would be the increase of local manufactures to the exclusion of foreign imports.

(c) Furthermore, it should be remembered that through the North of China there is little if any likin. It, therefore, would be an almost unheard-of proceeding for foreigners to tax themselves to the extent of 15 per cent on their products for a benefit which through a great part of China is purely visionary. If foreign goods are now travelling more or less freely all through the north of China, on what grounds should the duty be increased three-fold and especially when we consider that China has done absolutely nothing to merit any such consideratoin at foreign hands? The territory thus affected would mean almost one-third of the Empire, and a population of say one hundred millions.

If China had rendered some conspicuous benefit to humanity in general and the Western trading nations in particular some sentimental grounds might be found for conferring this great favour upon the country. Such, however, is not the fact, but quite the contrary. If we are determined to assist China to meet the indemnity, the great trading nations would find it far more to their advantage to sim cancel their claims on China than to p by overtaxing their commerce. It is s ply a question of taking money out of o pocket and putting it into the other. our commerce is to pay all the indemni it means that Great Britain, the Unit States, Germany, etc., are not only to p their own indemnities but also tax th goods in the interests of Russia, Fran and others who have very small comm cial undertakings in the Empire. The countries care little for other than a po tical influence and if the trade of the gre commercial nations is more or less stif in order to enrich Russia and France o influence is by so much weakened whi their's is correspondingly increased.

(d) The opinion seems to be entertain by some that the abolition of likin wo extinguish all the charges and disab ties now laid upon foreign goods; b would this naturally follow? It certai would not unless explicitly so stated the treaty and then followed up by a vi lant oversight; but in this way likin c be still continued and yet interfere in t way with Western trade, as is sho below. It is confidently anticipated some that the abolition of the barriers a the insertion of certain clauses in the n treaty will entirely free foreign comme from all further charges or exactions. this contention is correct why have we lowed the XXVIII article of the Tient Treaty of 1858 to fall into abeyanc Further, if this contention be true, w not take our stand upon that treaty a insist upon the full and complete obs vance of that most valuable provisio

(e) The present scheme of transit pas for inward goods works on the wh while the goods are actually en route, v well. The difficulties and obstructions ha been perhaps in some cases magnified. would seem that a closer and more d rect contact on the part of the forei merchant with the practice of inland tra would, at any rate, modify the opinio now held.

It is generally true that the tran passes on inward goods have been so f respected that no further direct charge likin has been levied. At the same ti it is admitted that at various barriers u authorised "squeezes" are continua exacted, but these are not in the nature likin and have no official cognisance sanction. A more or less extended e perience has shown me that the charg which are levied by the clerks and exa iners are levied as personal perquis

and do not figure in the official returns; that is to say, for instance, a native boat carrying foreign produce under transit pass to inland marts, when it arrives at a likin station must show its pass and be cleared, after examination of the pass and the cargo. The clerk who is responsible for the examination of the pass will put it on one side and delay the process until the boatman gives a present, which may consist of money, but more largely of foreign handkerchiefs, towels, soap and such like. The examiner in the same way is too busy to examine the goods until a solatium of the same nature gives him leisure and the cargo is in due time examined. This method of work obtains in every department of the Government of the Chinese Empire and can only be completely eradicated by a thorough reform of the fiscal system and of Government; this abuse can be modified by the adequate compensation of Government employees and their proper supervision and control. As soon as the gifts named above have been made the goods are released and the boat passes on its way. In this connection it should be remembered that a great many of the boatmen carrying goods under transit pass seek at the same time to smuggle through native goods that are subject to likin and this, of course, brings upon their heads condign punishment. In many such instances it is not unnatural that the offenders should seek the protection and assistance of their foreign masters or employers. In circumstances of this nature it is the likin office that has a right to complain and not the foreigners. If all this be true it may be objected, "Why then have the British merchants so long assailed the British Government with the demand for the abolition of likin?" The answer is an obvious one. The Chinese Government have acted upon the assumption that the transit pass has only protected the goods while en route and the moment the goods have passed the last barrier and the transit pass has been surrendered the goods are without protection and the Government have claimed, and exercised in many cases, the right to levy under other names any tax out they thought fit. Thus when the goods have run the gauntlet of all the likin stations and have arrived at destination, the transit pass having been duly respected, the officials come down upon the goods with a "lotishui" or laying down tax. This, of course, is something which was not especially provided for in the earlier treaties and has nothing to do with transit likin as such. And it is these unforeseen taxes which have figured so largely in public discussions though they have all been lumped under the general heading "Likin." These and similar taxes must be guarded against in the new treaty by distinctly stipulating that the 2½ per cent covers all levies.

There is no doubt that the Tientsin Treaty, so often referred to, did intend to provide against all these charges, but the supineness of our own officials has permitted the stipulation to be whittled away to nothing by the astute mandarinate and we have allowed the Chinese a free hand to do as they pleased. It is these other taxes which have been the chief annoyance, but the word Likin has apparently been used as a general title to cover every kind of charge, "squeeze," or tax. These and all other illegal taxes should be abolished. It will then be found that the irritation which has been so complained about has been swept away, especially if the regular likin system is supervised and controlled as suggested in the following sections.

(f) Supposing likin to be entirely abolished, what is to prevent the Chinese officials from exacting taxes upon the goods under some new name or new method, which the tax-inventive genius of the Chinese mandarin will readily discover? As already stated this can probably be obviated by distinct provision in the clauses of the new treaty coupled with vigilance upon the part of merchant and Consul. If this can be effected in the one case then it certainly can be in the other. The argument must work both ways. It follows, therefore, that if we have the power to abolish likin together with all other inland charges root and branch, then it is equally possible to retain likin and yet control it to the extent of eliminating the present objections.

(g) From the above, therefore, it follows that likin is not in itself the tremendous burden some imagine it to be. Further, that the exactions levied on inward borne goods under transit pass have been greatly magnified or misunderstood and finally that other taxes over and beyond likin have been levied. All this refers, of course, only to foreign goods and their relation to likin. The question of distinctly native trade is not discussed at any length in this paper. If then likin does not cause the injury to foreign trade that has been imagined, it follows that abuses should be corrected and the system regulated, so that it may work with the greatest possible smoothness.

Should the Chinese, on their own initiative and with a view to their own interests, determine to abolish likin on all native goods, they should be allowed to do as they please, unless we are to undertake the entire fiscal reform of the Empire. The regulation of the purely native trade is a matter in which we are not called upon to interfere except in so far as our interests are directly concerned. But when it is proposed that they shall regulate this trade so as to cause injury to that of Western Powers, it is proper to firmly resist any change.

Foreign merchants should demand the definition of likin-free area as suggested in this paper, and resist the suggestion that a single import tax of even 7½ per cent be levied, and the goods then freed from all other charges whatsoever. Such a tax would be an additional charge on all the goods now consumed in the port of entry, for in places where there are mills and factories, the amount of goods so consumed must be very considerable.

III. What are the remedies?

(a) In the first place, the practice based upon the interpretations of the treaties now in existence is indefinite, or directly contrary to certain of their provisions. The 28th Article of the Tientsin Treaty seems to make the matter perfectly clear when it says, referring to transit duties, "on payment thereof a certificate shall be issued which shall exempt the goods from all further charges whatsoever," and again in Rule 7 of the Tariff Rules, attached to and being a part of the same treaty, the following words: "No further duty will be leviable upon imports so certificated, no matter how distant the place of their destination." These clauses would seem to have definitely settled the question, and to this Lord Elgin's covering dispatch brings incontrovertible testimony. Unfortunately the third clause of the Chefoo Convention of 1876 has given a loop-hole of escape of which the Chinese have availed themselves. In that Convention it seemed to be the idea that British goods were to be freed from all further charges while en route, and it is just here that the Chinese have seen their opportunity and seized it. This interpretation is not based upon any definite clause in the Convention, but rather inferred from the reference to the status of British goods while en route. Whatever may have been intended by the British framers of this Convention, the above has been the almost uniform construction put upon it by the Chinese Government. If British goods were freed from further charges after the payment of the transit duties only while they were in transitu, it is evident that immediately upon arrival at destination they are at the mercy of the Chinese officials, and in a great many cases they have promptly pounced upon them with a "loti" or laying-down tax.

It is useless to object that the Chefoo Convention was never ratified or only ratified with certain reservations. The Chinese rightly understand that in it at any rate we showed our hand, and they have made the most of their position. While British Consuls have differed amongst themselves as to the interpretation of the treaties, their practice has been almost uniform in their inability to secure redress from certain grievances, and they have in many cases, at any rate, agreed with the Chinese contention and submitted to the "loti-shui." It is not to be wondered at, therefore, that the system of transit passes and the connection of foreign imports with the likin laws and Chinese tax collectors have resulted in confusion which in its turn has given rise to considerable dissatisfation and many complaints.

When we consider that neither treaties nor foreign exponents of the same, in the persons of our Ministers and Consuls, have been agreed, it was only to be expected that the Chinese would avail themselves of the opportunity to collect further taxes. We ourselves are therefore largely to blame for the present condition of affairs. It is surely most reasonable that our least demand should be to obtain the restitution to us of the position reached in the Tientsin Treaty, as already quoted, and no further concession whatsoever should be made to the Chinese Government in return for the same. This is a right which was long since conceded to British trade and of which we have been wrongfully deprived.

The Chinese officials do not as a rule act arbitrarily where foreigners are concerned, and in any case always seek to defend their actions by treaty. In a general sense it may be said that the Chinese people are most amenable to reason and law, especially when they understand that the law is clear and the determination to enforce the same unquestionable.

The first remedy, therefore, that I should suggest would be the statement in the new treaty in the plainest and most unequivocal language that on all foreign goods a duty of 5 per cent should be levied

which should free the goods for the area included in the port of import, which area should be distinctly defined and should most emphatically not be the area Sir Thomas Wade was ready to concede in the Chefoo Convention. The minimum of such area should at least be the entire city of port of import and all the country say within a radius of ten miles of the Custom House. Further, that upon the payment of an extra 2½ per cent such foreign imported goods should be free to travel to any part of the Chinese dominions and not as at present only to certain specified destinations. Further, the treaty should state most explicitly that no other tax or charge or disability of any nature whatsoever, no matter by what name called, should be levied upon these goods, whether in transit or at port of destination, and that no dealer, purchaser, or consumer, or other person handling such goods should be called upon to contribute in respect of such goods, either directly or indirectly; that is, having paid the import and the transit duties foreign imports are absolutely free from any control or charge at any time or at any place. If this is clearly stated in the treaties and foreign officials and Chinese mandarins unmistakably understand the position the present difficulties will have disappeared. Here and there probably will be found a mandarin who will seek to impose some burden for his own personal aggrandisement, but the most ordinary vigilance upon the part of the foreign merchant and Consul will overcome these difficulties entirely.

(b) Simplify the inward transit pass as has been indicated above, by making it possible for goods so carried to be sold anywhere in the Empire instead of restricting the area to one definite point of destination. This is a most important point. The present regulation works great hardship and leads to many abuses. When the dues have been once paid it is quite immaterial whether the goods are sold at A or B. Under the present rules if a dealer takes goods under transit pass to A 500 miles away he is bound to sell there; it may happen that there is no market for the goods out at the time, but that he can sell at B 20 miles further on. In such a case his transit pass is ineffective and his goods are subject to likin charges between A and B. Now if he could have foreseen the circumstances he might just as well have taken his transit pass for B and carried his produce there direct. It is obviously impossible to foresee all the contingencies of such a trade and the entire regulation is a mischievous one and is only calculated to produce irritating complications. If the transit pass were made free as to area a great improvement would result, and this concession should be demanded. When his reform is effected we shall only have obtained the fulfilment of the Treaty of Tientsin, of 1858, which evidently inteceeded to secure this privilege.

(c) On all Chinese manufactures or produce, whether emanating from foreign or Chinese mills or the result of any other local or native industry, let a scale of tariff charges be drawn up and published and a uniform system of charges and collection be adopted.

(d) Let the number and locality of the likin stations be tabulated and indicated and some scheme of supervision be devised by which the number of employees shall be regulated and their salaries fixed and the possibilities of over-exaction be reduced to a minimum. In some cases the Barriers collect no more revenue than is sufficient to pay the salaries of the staff employed; all such useless stations should be remorselessly swept out of existence. Some may object that the whole question is involved in this supervision and see insuperable difficulties. The reply to this is to indicate the Maritime Customs, which is an organised Government body prepared to take charge of the entire Customs of the Empire. A concentration in the hands of one department would be desirable in many ways and effect a great economy in working.

As it is at present there are in some districts three or four separate organisations practically covering the same ground, involving necessarily the maximum of cost to the Government and the greatest hindrance to commercial development. The tendency is to refer more and more of these stations to the Imperial Maritime Customs. Quite recently this department has taken over a portion of the native Customs system. It would be a matter well within the range of practical politics to transfer in like manner and by degrees, the entire likin system to this one organisation. In any such transfer, however, the greatest care should be exercised to secure the remission to the provincial treasuries of the entire proceeds of such collections, otherwise the most violent opposition may be expected. The Imperial Exchequer will look after itself, and order the Provincial treasuries to re-

mit such sums as it may need. It is essential that in any case the proceeds shall be paid direct to the provinces concerned.

(c) Simplify the rules for the export of Chinese produce and manufactures. It is surely a political axiom that the exports of a country should be stimulated and developed to the greatest possible extent. It should not be necessary to argue this point. In order to reach this end increased facilities under the transit pass system should be granted to all products actually sent out of the Empire. It should be possible for foreigners or Chinese to purchase any of the products or manufactures of China, and to bring them down to the coast or port of shipment on a transit pass, paying therefor, say the ordinary published tariff as indicated in paragraph two (c), page 28. The whole of this amount should be refunded by the Customs when the goods have actually left the country, if exported, say within six months after arrival at the coast or port of shipment. This is a most important provision and one which will be distinctly to the advantage of both Chinese and foreigners. It will encourage the export trade of the Empire by relieving it of all burdens or taxation. The result will certainly be to ring into the coffers of the peoples constantly increasing income. In this way the prosperity of the people will be rapidly advanced and they will possess an increased power of purchasing foreign and native produce and manufactures and this in its turn will swell the imports and consequently the revenue of the Government, which are the points aimed at.

IV. The gradual extinction of likin.

The processes indicated above and the developments indicated below, will in time wear away the system of likin. The reduction of the number of barriers will throw out of employment numbers of people gradually, whilst the total and sudden abolition would precipitate dangerous masses of unemployed men, their families, and dependants upon the community. At the same time the development of the country through the opening of mines, which will in turn entail the opening of factories, which will again bring about the opening of railways, will create a very large market for labour. The persons put out of employment from likin and other Government offices, will find in the new demand a ready market for their services, and thus obviate any social convulsion or disturbance. Furthermore, the revision and regulation of the likin service will render its billets less desirable than at present owing to the disappearance of the opportunity to "squeeze," and many employees will doubtless themselves reseign their appointments and seek new outlets for their services.

With the advent of mines and railways and manufactures, a gradual modification of the likin system will be necessary, for the rushing locomotive will impatiently oust the hindering barriers. This change will be along the lines of a normal, natural system of evolution, and will be spread over a long series of years, thus avoiding any sudden dislocation of numerous powerful organisations. These removals will be so gradual—here a station, and there a barrier—that they will not be generally noticed and no widespread hardship will result. The new modern developments will demand modifications which can be dealt with as they arise and in process of time we shall reach a point when the present likin system can be advantageously and harmlessly replaced by a new scheme.

In connection with the abolition of the likin system it is proposed to subject all seaborne commerce to a duty of 7½ per cent. This proposal is obviously a most unfair one and is a further blow against foreign interests and would amount to a differential tax against goods carried in foreign bottoms. The result of such a tax would certainly be to encourage the transport of all goods in native bottoms along the inland canals and rivers; by means of these inland waterways the extreme North and the extreme South could be put into communication and trade would be diverted from the coasting ships to the inland native craft and to the railways: that is to say, every discouragement is to be put in the way of the seaborne traffic while the railways and native craft plying on inland waters are to be bolstered up to the same extent. Moreover, it is surely most unfair that the trader who lives and trades on or near the sea coast has to be fined for so doing, for this is practically what the tax amounts to, while his inland confrère receives the benefit of an exemption. Any such change as this which is now proposed should, therefore, be most strongly resisted.

2nd. That the import and transit duties should not be increased beyond their present range:—

There are many reasons why the rate as now fixed should not be very materially altered. The new tariff is fixed upon the general basis of an effective 5 per cent ad valorem import duty with an additional 2½ per cent on goods going into the interior, so that beyond a very limited area of the port of import, an effective duty of 7½ per cent is being charged. According to the provisions of the Peace Protocol these rates have been very considerably augmented by adding a long list of articles from the free list to the 5 per cent list and by bringing all tariffs up to an effective 5 per cent. This in itself is a very generous contribution to the Imperial revenue and one for which foreign merchants have as yet received no corresponding advantage whatever.

This charge upon foreign goods, although it is a heavy one, is one which the trade can probably carry, but it has reached its limit at 7½ per cent. The aim should be to descend, if possible, to a lower rather than ascend to a higher point. At any rate, the present tax brings China a large, steady and ever increasing income. If finally it is decided to abolish likin altogether then some other form of taxation should be found and under no circumstances should foreign trade be taxed at a higher figure than the new effective Tariff now framed.

It is a false position from the standpoint of political economy, as has been stated, to charge excessive rates or indeed any tariff at all on exports. In order to allow Chinese products to compete in the markets of the world these rates should be abolished altogether, as before outlined. The national revenue might temporarily suffer slightly from such an abolition but the increased imports would almost immediately more than make up for the loss to the public revenues. It may be objected that the Chinese Government is not able to understand this benefit and that therefore it is out of the question till the rulers and people of the Empire are more enlightened and that therefore the present time is not an opportune one to urge it upon them. A moment's consideration should show the fallacy of this argument. Foreign nations are not suppliants at the feet of China but are on its soil as dictators. In earlier years China failed to see the advantages accruing from an opening of her ports to trade. The same was true of Japan, but Western Powers understood the advantages both for the native Governments concerned and for themselves and as conquerors compelled them to take a position which Japan, at any rate, must acknowledge has made her what she is. In dictating therefore to China in this instance we are only following lines we have travelled before. If China agrees so much the better for her and ourselves. If she does not she must be compelled to acquiesce and we must leave her to learn and in future years acknowledge the advantages which she has derived from the policy now advocated.

3rd. The revenue of China can be augmented almost indefinitely.

It is conceded that China requires a large augmentation of her present revenues. A consideration of the extent of China, its population and its natural resources will show that China is not only not a poor country but an exceedingly rich one; that there are within its bounds abundant sources of income and that it has undreamed of latent possibilities.

The payment of the indemnity and the charges for current Government expenses can be most easily met even by existing revenues if they are rightly administered. The development of new resources will lead streams of wealth into the national exchequer and can be made to produce large surpluses in the hands of the Govesnment.

Consider the entire national debt of this Empire. One of the largest and most populous Empires in the world, with the possibilities of wealth second to none, has a total national debt not much more than the ordinary annual revenue of each of several western countries. By a wise administration it would be perfectly possible for China to discharge her entire obligations within a single year. With such a wealth of resource it surely is wholly unnecessary and most unwise to allow ourselves to be burdened with the extra charges now sought to be imposed upon our commerce. How then is it possible to augment existing revenues and to develop new ones? To take first the existing revenues:—

(a) The Imperial Maritime Customs.

It is impossible to say how much may be expected to be derived from this source by the putting on the duty list of hitherto duty-free articles and the raising of imports to an effective 5 per cent duty. Judging by past years the revenue will certainly not decrease. According to all experience we are justified in expecting an increase in the ordinary trade and to this generally expected increase must be added the substantial advance which will

result from the additions to the Tariff list here referred to.

It is known at the moment of writing that the revenue during the last year in Shanghai has reached a higher point than at any time in the history of the Imperial Maritime Customs and that it is about a million and a-half taels higher than the average of the last ten years, or an increase of over 20 per cent. This is the ordinary, natural increase based on the old Tariff for the entire period with the exception of a little over a month and a-half. The alteration in the Tariff probably did not affect the situation to any considerable extent during the first month's operations.

If this increase is maintained there will be a normal surplus in the Customs of say roughly four millions of Haikuan taels over and beyond the average, and if to this we add the new revenue due to the revision of the Tariff now effected it will be safe to estimate the increase in duty at say several millions of Haikuan taels per annum. This in itself will be a very useful margin. It is freely recognised that at this stage it is impossible to reckon with any degree of accuracy the exact amount likely to be raised by the new duties, but it is certain to reach a very respectable figure.

It should be further borne in mind that Foreign Powers have made this valuable concession to China without any quid pro quo whatever. We have freely given away an advantage of large financial value and have received absolutely nothing in return for it. Let it also be remembered that China, and the Chinese Government as such, raised its hands in the most treacherous and barbarous way against foreigners, and disregarding the most sacred provisions of international law sought to destroy Ambassadors and Legations of friendly Powers. All this and more was done without a declaration of war, without the giving of any warning or notice whatever, but while preserving a mask of friendliness under the guise of a peace-loving ally. China thus sought inthe mostt treacherous manner to destroy the lives of citizens of friendly nations, and succeeded, alas! in some 200 cases in taking the lives of unarmed men, innocent women and harmless children. Its later avowed intentions were to sweep away the foreigner root and branch, violating every legal and sacred canon to effect its object and differing in this respect in no wise from any savage tribe of the earth. Furthermore, many of the lives that were actually saved from impending destruction have been reduced to physical and nervous wrecks owing to the sufferings entailed. All trade and commerce was dislocated and heavy losses involved. For the protection of their interests foreign nations were compelled to move armies to Chinese soil, involving great expense, suffering and loss of life. When at length the forces of disorder were brought into subjection and order brought ot chaos, the utter helplessness of the Government of China being made manifest foreign nations, instead of making the Chinese Government feel the responsibility of its heinous crimes are seeking to make the way of the transgressor as easy as possible. By this method of procedure the best interests of China are made to suffer: the future alone will reveal the dimensions of the present blunders.

One of the first steps in the settlement of peace has been to take millions of taels yearly from foreign commerce and place it into the pockets of the Chinese Government, and for this free gift absolutely nothing has been exacted in return. Surely this is not an act of the barest justice. The commerce of the people who have suffered in their persons and finances is made to smart still more severely in the interests of a Government which has deserved no such consideration. If, as a return for this concession, an additional freedom had been given to trade, some justification might be advanced. The conquered are in another form dictating terms to the conquerors, and those terms are neither to the interest of the one nor the other. Now it is seriously proposed, in order to still further lighten the burdens of the Chinese, which as is being shown, they are themselves well able to bear, to so fetter foreign trade by trebling the duty, that is, increasing same from 5 per cent to 15 per cent, as to make the conditions intolerable. Surely the world has never seen it in this wise before.

It is high time for those interested in the foreign commerce of this Empire to protest most vigorously against a further continuance of this suicidal policy. The concession already granted through the Imperial Maritime Customs to the Chinese Empire should surely be the utmost that we are prepared to give, enhancing as it will by millions of taels annually the amount of their revenue. For this con-

cession definite reforms should even now be demanded and obtained.

(b) A revision of the land tax administration.

From this source of revenue alone, vast sums may be obtained. Nothing more than estimates can be given from the very nature of the case inasmuch as there are no national and reliable statistics or accounts available for reference.

The total taxes paid on the ordinary farming lands amounts to about 1,500 cash per acre per annum, or say Tls. 1.20. In some districts this charge amounts to much more than the figures here set forth. It is most difficult to state the quantity of land so taxed, but Mr. George Jamieson's estimate of 400 millions of acres, if correct, would yield at this rate at least 480 millions of taels per annum. Even if the most liberal deductions are made it is very evident the Chinese Government have here a more than sufficient asset if wisely and honestly administered.

(c) By a gradual dismissal of vast numbers of useless officers in every province of the Empire an immense economy can be effected. For reasons already stated in connection with the likin, this step should not be too hurried. This was one of the reforms in process of being effected by the Emperor, when the Empress Dowager stepped in and brought the entire movement to a standstill.

(d) The revision and regulation of the likin and salt taxes, as already suggested in the discussion of the subject above.

(e) Additional taxes on native opium:—

The import of foreign opium is reckoned roughly at 50,000 piculs, yielding an annual revenue of say, Tls. 5,000,000. The estimated supply of native-grown opium is 200,000 piculs, from which only four millions of revenue is derived. The tax on this product should be raised to the level of foreign opium which would then yield to the exchequer twenty millions or an increase of at least sixteen millions. The officials may object that this tax would result in a diminution of consumption owing to the high price of the article. If this result should follow it would be in accordance with the often reiterated statements of the great officers of State, who have apparently desired nothing more strongly than the extinction of this trade. There are many who believe that the best results to this Empire and its trade and well-being would result from the total prohibition of this trade. The chief exponents of the views of the Chinese Government have again and again expressed themselves in these terms, and their opinions and public declarations have been extensively quoted. Unless their statements have been sham, therefore, they will be compelled to withdraw the objection to the proposed increase on the ground of diminished consumption, and should readily fall in with the proposal. The tax on this product can therefore, be made to yield at least 25 millions which spread over 40 years amounts to 1,000 millions a sum more than sufficient to pay the indemnities, principal and interest.

V. Formation of new sources of revenue.

(a) The opening of mines:—

China is the depository of vast amounts of mineral treasure. Possibly there is no country in the world so richly endowed as China, and yet practically none of its resources have been opened out.

Mining operations have heretofore been out of the question owing to the utterly impossible mining regulations, which have received apparently the tacit consent of the Foreign Ministers. The result has been an abstention from these enterprises on the part of both foreigners and Chinese. Foreigners were practically forbidden to undertake such work, and Chinese capitalists feared to expose their money to such extreme danger. A general scheme of mining laws should be laid down, by which any person might develop the rich deposits of the Empire. All unnecessary disabilities and regulations should be avoided. A fixed and moderate royalty should be exacted from all the products of such mines. By this means an ever-increasing revenue can be obtained. Take as an illustration the one product, coal. The Chinese have almost everywhere difficulty in obtaining fuel and in their efforts to supply the demand shave the hills bare even of grass and have completely deforested vast tracts. If coal could be put on the market in large quantities and at a reasonable price the consumption of this article would go up by leaps and bounds. Add to the ordinary household consumption the demands of the steamers, railways, factories and other industries and one readily sees a market such as can be found nowhere else in the world. Suppose a moderate royalty of say 25 cents Mexican per ton can be levied on all the coal extracted in a few years an annual revenue of say nearly Tls. 50,000,000 could be obtained. Furthermore, the vast deposits of

iron, copper, antimony, gold, silver, and other minerals can be made to yield ever-increasing revenues. The receipts from this mining source alone will provide China with ample funds for the liquidation of all her liabilities.

(b) With the opening of mines will naturally follow the demand for railways for the conveyance of the products of the mines to the most distant parts of the Empire. It is needless to point out how railways will increase the trade of the country and bring increased prosperity to the populace.

(c) With the opening of mines will also come factories for the refining and manufacture of the products of the mines and for the production of the necessities of modern life. All these, too, will bring into employment huge armies of men: prosperity and added wealth will result. In this increased prosperity of the people the Government is bound to share and will derive, therepon, the benefits of a constantly expanding revenue. At the same time there will come a gradual reformation of the scheme of Government, due partly to contact with foreigners and also as a result of wider education and the very necessities of the case. This will involve the payment to the officials of the Empire of definite and liberal salaries, according to the nature of the responsibilities of their office; this in its turn will entail an honest administration of the finances of the country. The saving in leakage will in itself be sufficient to place this Empire in a positon to meet all its financial obligations.

For the next 25 years, the amount which China should be allowed to spend on her army and navy should be placed within strict limits. The extravagant luxuries of the Palace and personal expenditures of the Court and the Peking Government might also be severely cut down.

There is at present admittedly an international control of the Empire. China can, therefore, find no safety in ar army and navy of her own creation. Unaided and alone she would fall an easy prey to any nation which seriously set itself to the conquest of the country. Her only safety is in the agreement of the Great Powers. Hence, a heavy expenditure on military and naval armaments is a useless one and can be avoided. A military police force should be the only one permitted and the vast and costly arsenals of the Empire should be closed or turned to other useful purposes. Chinese safety is in an international control, even though it be but a nominal one, and in the desire of the commercial nations not to annex its land but to exploit its commercial possibilities. The saving effected by these economies will be extensive and of great influence.

That this is a very urgent question is evidenced by Yuan Shih-k'ai's memorial to the Throne which is now under consideration. This official suggests that China shall be organised as a vast millitary camp after the model of the German Empire. It is appalling to contemplate the enormous expenditure entailed by a scheme which will make every adult Chinaman a soldier. In the face of such suggestions on the part of the foremost responsible statesman of the Empire, who must be perfectly aware of the cost of these schemes, it is impossible to believe that the Government can seriously consider the indemnities such a crushing charge as they wish foreigners to believe them to be. The memorial coming at this time gives weight and urgency to the proposition to severely curtail the military and naval expenditures of the Government.

While various propositions have been made with a view to stimulating native industries it must not be forgotten that two powerful influences are now at work in this direction.

(1) The change already effected in the Tariff revision, which has been referred to above and by which articles previously on the free list are now taxed, and by which all the specific duties have been brought up by an effective 5 per cent, increases by so much the advantage of native over foreign goods.

(2) The constant shrinkage in exchange. In a single year from the Spring of 1901 to the corresponding period of 1902 exchange has declined more than 12 per cent, from 2s. 10¼d. to 2s. 5¼d. and even less. The monthly remission of payments on account of the indemnity and interest on the same will probably prevent any reaction in the direction of a rise, indeed it is expected that the tendency will be for exchange to sink still lower unless there is a very largely increased volume of exports. Let it be noted that the constantly shrinking exchange increases the number of taels required to be furnished by China and this alone has added over 40 millions of taels to China's debt on account of the 1901 indemnity alone, being the difference in

sterling values between that date and now. This should be a very strong argument towards influencing the Chinese Government to increase the exports by freeing same of taxation so that the volume of exports may be swelled and exchange encouraged to rise, with the result that the total amount of taels to be remitted may be lessened. The shrinkage in exchange has correspondingly enhanced the value of all foreign goods and as exchange falls the price of foreign produce rises and all imported goods become dearer. As the selling rates of imports rise there is a corresponding tendency to manufacture locally and at a cheaper figure similar articles so that the competition becomes more and more severe against foreign imports. These influences do not need to be still further stimulated by the addition of heavy duties on western commerce, and at the same time the cancelling of all charges on native produce.

It is, therefore, perfectly clear from a full and frank consideration of the facts of the present situation that China will be easily able to meet all her obligations and that she does not require a further fettering of foreign commerce in order to assist her in the raising of revenue either for the extinction of her debts or to meet the current expenses of the Government. It is evident that any such process would be harmful to foreign commerce and be an injury to foreigners and to Chniese merchants and people alike.

All that China requires is an opening up of its undeveloped resources and a wise and prudent administration of its present sources of revenue. These ends can be accomplished if foreign nations will so formulate their new treaties that China may at last attain these ends.

All who have any interest or stake in foreign commerce with this Empire should at this time exert themselves to bring pressure upon our representatives so that foreign commerce may not be stifled by a 15 per cent import duty or any increase of the present rates, but be permitted the fullest scope of natural development along present lines. At the same time such reforms should be introduced as to remove present barriers and restrictions as far as possible. The direction these reforms should take has been indicated in the foregoing pages. If some such methods as here suggested are carried into operation a peaceful and wonderful revolution will be observed within the next two decades in China which will astonish the world and bring untold blessings upon all concerned.

Shanghai, February 1902.

Suggested Mining Regulations Based on the Indian Mining Laws.

By EDWARD S. LITTLE, SHANGHAI.

Under the Indian regulations there are many provisions in reference to the granting of licenses to prospect, but as these are unsuitable to the Chinese conditions, I would suggest that no regulations be adopted for the issuing of prospecting licenses, and for the following reasons:—

(1) This is something entirely new and unknown among the Chinese. They are accustomed to wander where they please, without let or hindrance, and it will certainly invite misunderstandings if they are all at once hindered from doing that which they have been for generations freely accustomed to do, and which, through long custom, has come to be considered almost a right.

(2) The Chinese keep away from their officials and yamêns as much as possible; there is a well-founded desire to avoid these officers, and it is almost a proverb with them that that man is happy who has no dealings with the officials. If intending prospectors were compelled to apply at the yamên for a "permit to prospect," in the great majority of cases they would certainly not go, but would continue their prospecting just the same. It is evident this would be a fruitful cause of broils and litigation. Moreover, the ordinary Chinaman would very much object to pay a fee in order to have permission merely to prospect—a vague and intangible security. It should further be borne in mind that the Government land in many parts of China, if not all over the Empire, is regarded as public and common land, and the local gentry and people claim and exercise considerable control over the same. A feeling of resentment, therefore, would be aroused if they were debarred or excluded from customary privileges. The common people freely cut down the grass and trees on the public or Government lands, and even squat on same and build houses without interference. If this complete liberty were interfered with in an arbitary manner, such interference would be ill-received.

(3) There is a well-known difficulty in the matter of approach to any local mandarin on the part of the average Chinaman. He has to run the gauntlet of a long line of yamên underlings, and can only reach the official either through petition or in person, and in either case only after a more or less extensive list of "squeezes." Applications for licenses, therefore, would be fraught with many obstacles and these of such a real nature as to be sufficient to discourage many would-be prospectors. For these reasons, therefore, it would seem to be wise to institute no scheme of licenses for prospecting, but to allow the present absence of restrictions to continue.

Mining Leases and Permits.

These should be of two kinds, (1) Mining Leases, in the event of a proposition to mine Government land, and (2) Mining Permits, when it is proposed to carry on mining operations on land privately owned.

1st.—Mining Leases.—In cases where persons wish to mine on Government land, the following rules are suggested:—

(1) The land shall be leased at a uniform rate of say 200 cash per mow per annum. No further tax or charge shall be levied or collected other than as named below.

(2) All royalties shall be in accordance with Schedule A.

(3) All applications shall be made to the District Magistrate, who shall constitute the mining officer for all mines situated within his territorial jurisdiction.

(4) Bonâ-fide applicants shall be treated in the order of their applications, and their cases dealt with in strict impartiality.

(5) Proclamations informing the public of these regulations shall be posted freely throughout the country and it shall be clearly stated that further than the legal

published rates no additional charges whatever shall be exacted on account of any persons seeking a lease for mining purposes and that either the Magistrate or any of his underlings or employees or any other person attempting to levy any kind of charge beyond the published legal ones shall be subject to heavy disabilities. Neither shall the local official or any of his agents raise frivolous objections or unduly delay the granting of leases when the regulations have been complied with.

(6) Every applicant for mining leases shall state in his application:—

(a) Name and residence of applicant.

(b) Names of minerals for which the applicant intends to mine.

(c) Description and situation of land proposed to be mined.

(7) Mining operations shall be commenced within 18 months of the granting of the lease, otherwise the entire rights are forfeited.

(8) Persons obtaining mining leases shall carry on their work in a shilful and mining-like manner without doing unnecessary damage to the property worked.

(9) Persons obtaining leases shall have the right to work the same continuously for an indefinite period, but their rights will determine and cease if they neglect for 18 consecutive months to continue mining operations, or if they only work spasmodically during the 18 months with no other purpose than that of maintaining their rights. In any case sufficient warning shall be given the lessees of the consequences of failure to prosecute continuous work.

(10) Persons obtaining a lease shall have the right to sub-let or transfer the same under the regular mining rules.

(11) Mining properties shall at all times be open to the inspection of the properly-constituted mining authorities.

(12) All royalties shall be paid before or at the time the product leaves the mouth of the pit, except as provided in schedule A. Such products shall then be free to be conveyed to any part of the Chinese dominions or be exported without any further charge.

(13) Any person, whether Chinese or foreign, may apply for and obtain mining leases; no partiality whatever shall be shown to any particular persons or companies.

(14) No mining leases shall be granted under these rules so as to cause the total area held under mining leases by the lessee or by those joint in interest with him to exceed 10 square miles, provided this does not in any way interfere with mines held or worked under private ownership.

(15) The lessee shall at his own expense erect and at all times maintain and keep in repair boundary marks and pillars, according to the demarcation to be shown in the plan annexed to his lease.

(16) The lessee shall make and pay reasonable satisfaction and compensation for all injury which may be done by him in exercise of the powers granted by the lease, and shall indemnify the Government against all claims which may be made by third parties in respect of any such injury.

(17) The lessee shall keep correct accounts showing the quantity and particulars of all minerals obtained from the mine, with complete plans of the mine, and shall allow any authorised officer of the Government to examine such accounts and plans and to inspect the mines, and shall furnish the local Government with such information and returns in respect of the aforesaid matter as it may prescribe, all such information and returns being considered strictly confidential.

(18) The lessee shall without delay report to the mining officer the finding of any mineral not specified in the lease.

(19) Should the royalty or rent reserved or made payable by the lease be not paid within two months next after the date fixed in the lease for the payment of the same, the local government may enter upon the said premises and distrain all or any of the minerals or movable property therein and may carry away or detain them until the rent or royalty due and all costs and expenses occasioned by the non-payment thereof shall be fully paid; and, if any royalty or rent remain at any time unpaid for six calendar months after the date on which it is due, the local government may determine the lease and take possession of the premises comprised therein.

(20) In case of dispute, where natives alone are concerned, the local mining authority shall decide, but where a foreigner is concerned he may have the right to appeal the case to a Mining Court consisting of the Court of Consuls and the Chinese mining officer located in Shanghai. The parties to the dispute shall have the right of appearing, either in person and/or with legal representatives to state and argue the case. The decision of this Court to be final.

2nd.—Mining Permits, for mining on land privately owned:—

(1) All persons owning property under regular deeds shall have the right for anything beneath the surface but will be subject to the same payments of royalty as in the case of mining leases. Private ownership shall not be interfered with by the local authorities nor shall any hindrance be put in the way of mining or developing such properties.

(2) Mines worked on land privately owned shall be subject to the same general rules and privileges as those worked under Government lease, so long as private rights of ownership are not interfered with.

(3) Properties on which mines are being worked may be freely transferred, as if the mines were not there, and title deeds shall be stamped when in due order without unnecessary delay.

(4) In all cases facilities shall be granted for the constructors of such railways or other means of conveyance for the transport of the products of the mines.

(5) There shall be no restriction whatever as to the subscription of capital for the formation or conduct of mining companies.

(6) There shall be no further taxation direct or indirect on mining companies, their works or products, other than those already specified.

Royalties including all duties and taxes:—

Coal, 25 cents, Mex., per ton.

Oil, 50 cents, Mex., per 100 gallons;

Gold or Silver, 7½ per cent (calculated on the yearly profits).

Iron, two cents per ton, iron stone.

Copper, tin, lead, etc., 2½ per cent on the value at the pit mouth of the dressed ore or metal.

Precious stones, 30 per cent on the profit of each year, taken separately.

DEPT OF STATE
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CLERK'S OFFICE
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TELEGRAM RECEIVED.

11 Gork

From Shanghai

Mch 6, 1902

Received 1, 31 P.M.

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REC'D MAR 7 1902

Telegram to atty General Mch. 6, 1902.

Rayesdale suspends Plants
Sentence account sickness
Please confirm
Goodnow

Consular Bureau
MAR 6 1902

RECEIVED
APR 9 1902
DEPT. OF STATE

Ack. File

3rd. ASST. SECRETARY
APR 9 1902

No. 441

Consulate-General of the United States,

Shanghai March 7, 190 2

Mr. Goodnow

To the Department of State.

ack'g from Apr 14/02

Subject:

re to the Shanghai Conservancy

Abstract of Contents.

Enclosing copy of #395 to Mr Conger.

No. 441

Consulate-General of the United States,

Shanghai Mch 7, 1907.

Honorable H. H. D. Pierce

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my despatch No. 395 & enclosures to the Ex. Consul at Wuchow Concerning.

I am, Sir, your obedient servant

John Goodnow
Consul General

No. 395 Copy

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, Mar. 6th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

I hand you herewith a list of those who qualified under paragraph e, Section IV, of Annex 17of the final Protocol. And a copy of a letter which I am sending to each calling for election of their representatives. I have also written to the other bodies entitled to representation under Annex 17, to send me the names of their representatives by March 12th.

I desire to call your attention to the strictly cosmopilitan character of the firms whose entrances and clearances exceed 50,000 tons per annum . There are 38 firms divided as follows:

Chinese 1

American 3

German 12

British 13

Danish 1

Japanese 6

Russian 1

French 1

This list is as represented by Agents. 1 American line is represented by a British Agent. A British and a Japanese line are represented by an American agent: One British line is represented by a German agent; so that the true classification is 1 Chinese, two American, 11 German, 11 British, 1 Danish 7 Japanese, 1 Russian and 1 French. I have noted opposite the names of each on one side the Nationality of Agency; on the other side the nationality of organization.

Signed —

Agent		Nationality of organization
German	Carlowitz & Co.	German
British	P. & O. Steam Ship Co.	British
Danish	The East Asiatic Co. Limited	Danish
Japanese	Mitsui Bussan Kaisha	Japanese
American	Russo Chinese Bank (Volunteer Fleet)	American
G.	Siemssen & Co.	G
B.	MacGregor Bros. & Gow	B
G.	Shell Transport & Trading Co. (A. K. & Co.)	B
G	Hamburg-Am. Yangtse Line (A. K. & Co.)	G
G	Arnhold Karberg & Co.	G
B	Chinese Eng. & Mining Co.	B
G	Sanders, Wieler & Co.	Austrian Lloyd
B	Greaves & Co.	B
Jap	Nippon Yusen Kaisha	Jap
B	N. P. Railway Co. (Dodwell & Co.)	U S
B	Dodwell & Co.	B
B	Jardine Matheson & Co.	B
B	Indo-China S. N. Co. (J. M. & Co.)	B
B	C. P. Railway Co. (J. M. & CO.)	B
U S	O. & O. S. S. Co. (P. D. & Co.)	B
"	Toyo Kisen Kaisha (P. D. & Co.)	Jap
"	Pacific Mail S. S. Co. (P. D. & Co.)	U.S.
B	Ocean S. S. Co. (B. & S.)	B
B	China Navigation Co. (B. & S.)	B
G	Meyer & Co.	G
G	Melchers & Co.	G
"	Jebsen & Co. (Melchers)	"
"	Norddeutscher Lloyd (Melchers)	"
"	Hamburg-Am Line (Melchers)	"
B	George McBain	B
G	Ostasiatische Handel Gesellschaft	G
Jap	Osaka Shosen Kaisha	Jap
"	Mtisu Bishi Co.	"
French	Messageries Maritime	French
B	Hopkins Dunn & Co.	B
Chinese	China Merchants S. N. Co	Chinese
Jap	Taniguchi Kato & Co.	Jap
"	Yoshida & Co	"

CONSULAR SERVICE, U. S. A.

Shanghai, March 6th, 1902

Gentlemen:

The Consular Body of Shanghai have instructed the representatives of Belgium, Denmark and the United States to sit at the office of the Senior Consul, No. 36 Whangpoo Road, from 3 to 4 P. M. on Wednesday, March 12th, 1902 to receive the ballots for two representatives to serve on the Board for the Conservancy of the Whangpoo River of those entitled to vote under Paragraph e, section IV, of Annex 17 of the final Protocol.

Your firm is on the list of such Electors as approved by the Shanghai Consular Body.

I am, your obedient servant,

Senior Consul.

Consular Bureau.
APR11 1902

CONSULAR BUREAU
REC'D.
APR 9 1902
DEPT OF STATE

3rd. ASST. SECRETARY.
APR 9 1902

No. 442

Consulate-General of the United States,

Shanghai, March 11th, 1902.

Mr. Goodnow,

To the Department of State.

Ack by form Apr 14/1902

CONSULAR BUREAU.
ACKNOWLEDGE,
FILE.

Subject:

Whangpoo Conservancy.

Abstract of Contents.

Enclosing letter to Atlantic, Gulf and Pacific Co.

Consular Bureau.
APR11 1902

No. 442

Consulate-General of the United States,

Shanghai, Mar. 11th , 190 2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith for general information copy of a letter which I have sent to the Atlantic Gulf and Pacific Co, at Manila in response to a letter received from its New York Office, regarding the work to be done to conserve the harbour of Shanghai,

I am, Sir, your obedient servant,

John Goodnow
Consul General.

(1 enc.)

CONSULAR SERVICE, U. S. A.

Shanghai, Mar. 11th, 1902

Atlantic, Gulf and Pacific Co.,

Manila, P. I.

Gentlemen:

I have received a letter from you from New York dated Jan. 23rd, 1902 asking information regarding the improvement work contemplated in the harbour of Shanghai.

This work will be done under authority of Annex 17 to the final Protocol, dated Sept. 7th, 1901; and will be under the management of the Conservancy Board provided for in that Annex. I think that that Board will be organized in about ten days from the present, and that then specialists will be asked to make plans and to bid. The advertisement for these will be International; and the Board is so thoroughly International that the merit of the plan and the cheapness of the bid will be the determining factor.

The work to be done is so thoroughly peculiar to this particular undertaking that I would not advise any body to bid or to formulate a plan except after thorough investigation onthe spot. It is estimated that the work will cost about $7,000,000.00 U. S. Gold.

Very truly,

John Goodnow

Consul General.

CONSULAR BUREAU.

CONSULAR BUREAU.
NOTED.

REGD. APR 9 1902 DEPT OF STATE

3rd. ASST. SECRETARY.
APR 9 1902

No.

Consulate-General of the United States,

Shanghai, 11. March, 1902.

Mr. John Goodnow

To the Department of State.

Ack'd by foreign April 19/02

Subject:

Marriage

Abstract of Contents.

Marriage Artificate of Geo. Thomas Murray and Mary Chen Tao.

Consular Bureau.
APR 10 1902

No.

Consulate-General of the United States,

Shanghai, 11th March 1902

Honorable David J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to transmit herewith a Marriage Certificate of George Thomas Murray and Mary Chen Tab.

I have the honor to be

Sir.

Your obedient servant.

Wm Goodnow

Consul General.

One Enclosure

CONSULAR BUREAU.
NOTED.

Consular Office of the United States of America

SHANGHAI, CHINA Feby 20 1902

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this 20 th day of Feby A. D., 1902, at US Consulate Genl in the city of Shanghai = George Thomas Murray, aged 50 years, born in New York City and now residing in Shanghai China, and Mary Chen Tao, aged 32 years born in Canton China, and now residing in Shanghai, were United in Marriage before me, and in my presence, by Rev J H Hykes DD, who is authorized by the laws of Penn. USA to perform such a ceremony.

In Witness Whereof *I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this* 20 th *day of* Feby, *A. D.* 1902, *and of the Independence of the United States the* 126 th

[L. S.]

John Goodnow
Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



DIPLOMATIC,
3rd. ASST. SECRETARY.
APR 9 1902
BUREAU.

MISCELLANEOUS BUREAU
RECD
APR 8 1902
DEPT. OF STATE

No. 444

Consulate-General of the United States,

Shanghai March 14, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Shanghai Mixed Court

Tel. to China
Tel. to Apl. 15.
Ans April 19/1902
See No. 938, March
7, 1902 from Min-
ister Conger.
J. C.

Abstract of Contents.

Proposed amendments to rules

Consular Bureau
APR 17 1902

No. 43

Consulate-General of the United States,

Shanghai, March 14th, 1902, 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith a list of the proposed amendments to the rules of the Mixed Court in Shanghai, which I have sent to Mr. Conger.

Some time ago the Ministers of the United States, Great Britain and Germany sent to the three Consuls-General here to prepare and forward to them suggested amendments to those rules. While this work was in process, Sir James Mackay came here and proposed to H. E. Sheng to put an article in the Treaty between England and China providing for the regulation of this Mixed Court. In preparing that article he did not consult with any of the Consuls here; and had in several provisions which experience had taught us would be very objectionable. The Consuls took the ground that the Mixed Court represents all the Nations in Shanghai vis-a-vis the Chinese; and that therefore, regulations affecting it should be a matter of International agreement and not to be fixed by one Nation.

The German Consul General and I, therefore, drafted these proposed amendments which were finally agreed to by all the Consuls, except that Mr. Warren H. B. M's Consul General declined to take part in the discussion as the matter had been taken out of his hands by the instructions to Sir James Mackay.

The Consuls, after thorough discussion and unanimous agreement, instructed me as Senior Consul to send these amendments to the Doyen of the Corps Diplomatique at peking " as, in the opinion of the Consular Body, suitable to be adopted." I also sent them to Mr. Conger with the following statement:

"These amendments cover all that I think it desirable at the present time to ask, and I would recommend in the interest of American Trade that you urge the consent of the Chinese Government to them."

I called Mr. Conger's attention to the objection of the Consuls to any one Nation fixing the rules of this Court which represents all Nations vis-a-vis the Chinese. This is a cosmopilitan city; all the Treaty powers have business in this Court; and the business of no one Nation is predominant.

Each proposed amendment is an advance and an improvement on the present rules.

1- It is provided that there shall be a regular docket kept of all cases. Nothing of the kind is kept at present and it is almost impossible for the parties interested to keep track of the proceedings.

2- It is provided that the proceedings shall be opened to the Public. Many cases are now tried in camera ; and, in the past, torture has been applied to witnesses in the privately heard cases to exact testimony.

3- At the present time the Chinese Judge is an official of very low rank and can not try many cases.

4- We attempt to provide, as far as possible, a regular method of appeal. At present there is absolutely no finality of judgment; and the appeal from this Court may be to the Taotai, the Judge in the native city, the Governor of the Province, or to the Viceroy.

5- The present Mixed Court jail is a sanitary abomination.

6- The counter signature of the Senior Consul and the Consul of the nationality of the employment of the defendant is at present required; but often is neglected. We simply reaffirm the present rule.

7- If the Court is to maintain its dignity some such rule as we propose must be adopted to prevent contempt of Court. At present the Court can not enforce its order upon any Attorney before it.

8- This I consider the most important amendment proposed. The Chinese law at present is the law of a nation which does not trade. It is very closely akin to the common law of England before it was modified by the necessities of foreign trade which had its beginning in the reign of Elizabeth. The Chinese law is being developed in Trade matters in this Court, by the necessities of Trade, in the same direction in which our Commercial law has evolved. In this paragraph I could not say that the 'English common law' should prevail where there is no Chinese precedent. The representatives of the Continental Nations would never agree to that phraseology. As the British and American Assessors sit five days in each week, the phraseology of the proposed amendment must mean that our 'common law' will prevail.

I sincerely hope that the Department will approve these amendments and will telegraph our Minister at Peking to urge their adoption.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Enclosed in #443.

PROPOSED AMENDMENTS TO THE MIXED COURT RULES.

1.

a- The Mixed Court of Shanghai shall keep a regular docket in Chinese and English of all civil actions and proceedings, entering each case separately, numbering it consecutively, with the date of filing, the names of the parties in full, their Nationality, the thing claimed, with minutes and dates of all orders, decrees, continuances, appeals, and proceedings until final judgment, and a sufficient minute of the final judgment.

b- Another regular docket shall be kept for all criminal cases, with similar minutes.

c- Such docket shall be open at all times for inspection by parties interested.

-2-

All trials and proceedings in the Mixed Court of Shanghai shall be open to the Public unless the Assessor and Chinese Judge agree that for public morals the case should be heard in private.

-3-

The Chinese Judge in the Mixed Court of Shanghai shall be a sub-stantive sub-prefect; and authorized to try all cases against Chinese in the foreign settlement North of the Yang-king-pang.

-4-

a- A foreign Assessor, as agreed upon by the Consular Body of Shanghai and subject to the Treaty rights of each Nationality of foreigners, shall sit with the Chinese Judge in every case.

b- When the Chinese Judge and the foreign Assessor shall agree as to the judgment in any case involving

involving less than 1000 Taels or six months imprisonment, their joint judgment shall be final. Should they not agree in any case, then no decision in that case shall be rendered by them and the case shall be referred to the Taotai and Consul concerned. Where any case involves over 1000 Taels, or to exceed six motnhs imprisonment is given, either party may appeal to the Taotai and Consul concerned. Should the Taotai and Consul concerned agree in any case, their joint decision in such case is final. Should they disagree, the case shall be sent to the Viceroy at Nanking and the Consul concerned on the record.

-5-

The Mixed Court jail shall be subject to the Sanitary regulations and the supervision of the health authoritites of the Municipality north of the Yang-king-pang.

-6-

All warrants of the Mixed Court against Chinese in the foreign settlement north of the Yang-king-pang, shall not be enforced unless countersigned by the Senior Consul of the Consular Body at Shanghai. If the defendant is in the employ of a foreigner, such warrant must be countersigned by the Consul of the Nationality of the employment of the defendant.

-7-

Should the Attorney in any case be adjudged by the the Chinese Judge and the Assessor sitting in that case to be guilty of any contempt committed in their presence, or of any refusal to obey their lawful summons or order, he may be suspended by them from practice in that Court for a period not exceeding one month or, with the consent of the Consul of the Nationality of the Attorney concerned, for not to exceed six months.

-8-

In cases involving principles where no precedents exist in Chinese law, the Mixed Court shall be governed by commercial customs and equity.

-9-

All parts of the present rules and regulations for the Mixed Court of Shanghai not in conflict with these amendments are hereby continued in full force.

MAIL & FILE BUREAU RECD APR 8 1902 DEPT OF STATE

Ack File

3rd. ASST. SECRETARY APR 9 1902

No. 944

Consulate-General of the United States,

Shanghai, March 15th, 1902.

Mr. Goodnow,

To the Department of State.

ack by form Apr 14/02

Subject:

Whangpoo Conservancy.

Abstract of Contents.

Enclosing duplicate No. 397 to E. H. Conger.

No. 444

Consulate-General of the United States,

Shanghai, March 15th, 190 2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my No, 397 to Hon. E. H. Conger, re Whangpoo Conservancy.

I am, Sir, your obedient servant,

John Goodnow

Consul Gnereal.

(1 enc.)

No. 397 duplicate.

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, March 15th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

Continuing my #395 and others re Conservancy Board I have to report that all the members of that Board are now chosen with the exception of the nominee of the Chinese Government under Par H, Sec. IV of Annex 17. The following is a list of the members already elected, with their respective nationalities.

The Taotai of Shanghai.	Chinese
Commissioner of Customs, Shanghai	British
Consul General Siffert.	Belgium
Consul Leigh-Smith.	Denmark.
A. Wright of Butterfield & Swire	British
J. S. Pearon of Pearon, Daniel & Co.	United States
A. W. Marshall of P. & O. S. N. Co.	British
T. Hayashi of Nippon Yusen Kaisha	Japanese
W. C. Bayne	British
Paul Brunat	French
Consul General Knappe	Germany
Act'g Consul General Ratard	French
Consul General Odagiri	Japanese
R. Inglis of Jardine Matheson & Co.	British
Consul General Goodnow	U. S. A.

The Taotai promised to name the Chinese representative by/ tomorrow; but has gone to Nanking.

Duplicate 2197

I am wiring him this morning urging him to wire me to-day the name of a man. Immeddately such an appointment is made we will call the members together and organize.

Since writing the above Consul general Knappe has called to say that he has a telegram from his Minister saying that the Corps Diplomatique have sent a note to the Chinese Government urging the immediate naming of this representative on this Board.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 445.

CONSULAR BUREAU
RECD
APR 25 1902
DEPT OF STATE

3rd. ASST. SECRETARY.
APR 26 1902

Consulate-General of the United States,

Shanghai March 25 1902. , 190 .

CONSULAR BUREAU.

Mr. Goodnow, Copy to Treasury H.N.W.C.

To the Department of State BUREAU OF FOREIGN COMMERCE.

Ack'd by form, and Copy to Treas. May 1/02.

Subject:

Tariff.

Abstract of Contents.

Enclosing resolutions American Association against any advance.

Consular Bureau.
APR 28 1902

No. 445.

Consulate-General of the United States,

Shanghai March 25 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith (in duplicate) Resolutions passed by the American Association, protesting against any advance in the Tariff on foreign importations into China.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Whereas a proposal has been made that the import duties on merchandise from foreign countries shall be increased from the existing tariff rate of 5 per cent ad valorem and 2½ per cent transit dues to 15 per cent ad valorem, in consideration of which the illegal levies known as Likin, lo-ti-shui, etc., now made in certain parts of the Empire of China shall be abolished; and

Whereas it is argued that notwithstanding such increase of tariff duties on imports, trade would be promoted through such abolition, yet the proposition is urged primarily in the interest of the Chinese Government in order to enhance its revenues, that it may the more easily meet its obligations to foreign powers under the indemnity award of the peace protocol; and

Whereas the proposal thus contemplates a greater reduction in imposts by the abolition of likin, etc., than the extra duty to be levied, in which case the Chinese Government would remit a greater sum than it gained, demonstrating that the proposal is illogical, illusory and contradictory; and

Whereas no sufficient data exist or have been submitted, for approximately estimating the result of such change as is proposed, and that such result is a matter of conjecture only; and

Whereas even were the proposal accepted by the foreign powers, it is admittedly a matter of the gravest doubt whether the Imperial and provincial authorities would or could, under their present system of administration, abolish the existing system of interior illegal taxation with its extensive ramifications, and from which a great part of their revenues are derived;

Resolved:—

1stly.—That, in the absence of more information on the subject favourable to the proposal under consideration, this meeting is of opinion that it is expedient in the interest of American trade, that the existing terms of the protocol establishing an effective five per cent import duty should be maintained, it being understood that an additional payment of 2½ per cent transit duty shall free merchandise from any further inland tax, as provided for in the existing treaties.

2ndly.—That, as a preliminary to any negotiations looking to increased duties as the price of the abolition of likin and other illegal exactions, it is the duty of the Chinese Government to make a complete return showing its existing revenues, both Imperial and provincial, and its current expenditures, to the end that a correct judgment as to the matter in question may be arrived at.

3rdly.—That a copy of these resolutions be transmitted to the Secretary of State, the U. S. Minister, and to the U. S. Commission appointed for the revision of the commercial treaties with China, with a request that they be given favourable consideration.

The original resolution were then put to the meeting and carried with one dissentient.

INDEX BUREAU RECD APR 28 1902 DEPT OF STATE

No. 446

3rd. ASST. SECRETARY. APR 29 1902

Consulate-General of the United States,

Shanghai, April, 1902.

Mr. Goodnow,

To the Department of State.

Ack by form May 13/02

Subject:

re the Whangpoo Conservancy.

Abstract of Contents.

Enclosing Duplicate #402 to U. S. Minister at Peking.

Consular Bureau MAY 12 1902

No. 446

Consulate-General of the United States,

Shanghai, April 5th, 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith copy of my #402 to U. S. Minister in Peking, giving him confidentially the advice to the Viceroy of the British Consul in Nanking against the Whangpoo Conservancy (Annex 17).

I am, Sir, your obedient servant,

John Goodnow

(1 enc.) Consul General.

Copy

No. 402

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, April 5th, 1900 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

I have to confirm my telegram of April 4th.

"Conger, Peking, confidential. Am assured British Consul Nanking tells the Viceroy (that the) British Minister will fix amendments to Annex 17 to suit the Viceroy. If the British Minister can be forced to take stand openly favoring the Annex it may settle everything.

Goodnow."

The Shanghai Taotai is very much troubled in regard to the attitude of the Viceroy. He called on me yesterday and told me, in great confidence, that the Viceroy is largely influenced by the advice of the British Consul in Nanking. He says that the Viceroy is very much opposed to the entire Annex; but would not dare to absolutely refuse to carry it out without the assurances of help from the Consul. He says that the Consul constantly assures the Viceroy that the British Minister is in thorough sympathy with the Viceroy and is doing his best to have the Conservancy plan (Annex 17) changed to suit the Viceroy's views. I therefore suggested that if you could in some way secure an open expression from the British Minister that the Annex can not be changed, it willtake the heart out of the Viceroy's opposition. I am loath to believe that Sir Ernest Satow approves the Consul's position.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

DEPARTMENT OF STATE

APR 10 11 26 AM 1902

CHIEF CLERK'S OFFICE

RECEIVED

17 Govt

TELEGRAM RECEIVED.

4 PM

From Shanghai

Confirmed by mail Apr 16/02

Apl 10, 1902

Received 11½ A M.

Secretary of State,

Washington

Acknowledged Apr 10/1902

Sent by telegraph Apr 14/02

Derby starts fifteenth

Plant too ill consumption

recommend pardon Rest

friends will send

South

Goodnow

No. 447

3rd. ASST. SECRETARY. MAY 15 1902

RECEIVED MAY 15 1902 BUREAU OF ACCOUNTS DEP. OF STATE.

Consulate-General of the United States,

Shanghai April 15, 1902.

Mr. Goodnow

CONSULAR BUREAU.

To the Department of State.

ACKNOWLEDGED
BUREAU OF ACCOUNTS.

Subject:

Removal of prisoners to U.S.

Abstract of Contents.

Confirming telegrams.
Marshal & 2 prisoners sail 16th
Dft. $650= drawn

Consular Bureau. MAY 16 1902

No. 447

Consulate-General of the United States,

Shanghai Apl 15th, 1902.

Honorable H H D Pierce

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to confirm my telegram of April 10
"Derby starts 15th - Plant two ill.
Consumptive. Recommend freedom Lee -
friends will send south"
and your reply of April 14th -
"Plantz freedm signed - Bold him
sending receipt papers" -

In accordance with your "301" of
March 7th, U.S. Marshal Derby sails Apl 15th
in the P.M.S.S.Co's "Peru" for San Francisco with
Richard Leslie Rutter and James Winn -
Mr Derby has drawn upon the Secretary of
State for $650.00 to enable him to carry
out said instructions: and will render an
account of expenses -

I am, Sir, your obedient servant

John Goodnow
Consul General -

INDEX BUREAU
RECD.
JUN - 4 1902
DEPT. OF STATE

No. 448

Consulate-General of the United States,

Shanghai April 24 1902.

Mor.

To the Department of State.

Rec'd by Board
Ans'd copy to Board
with copy of
for. Instructions June 11-1902

Subject:

Charges against Rev. A.G.C. Hallock
from the Prefect of Kinhwa.

Abstract of Contents.

Copies of letter Enclosed

Consular Bureau.
JUN 5 1902

No. 448.

Consulate-General of the United States,

Shanghai April 29 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herwith in duplicate copies of a letter sent by me today to the Chairman of the Executive Committee of the Central China Presbyterian Mission, regarding a complaint of the Prefect of Kinhwa, Chekiang Province, against the Rev. H. G. C. Hallock.

As the main complaint is that Dr. Hallock shot a Chinese without sufficient provocation; and as Dr. Hallock admitted the facts to Mr. Conger and myself, I have asked the Committee to remove Dr. Hallock from Chekiang Province, and have recommended that he be sent back to America.

I ask you to send one copy of my letter to the Board of Presbyterian Missions in New York City.

I hope for your approval.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Pharmacal Papers No 1902.

P. No. P. Patton.

Dear Sir:

I have to hand your favor of 8th inst. requesting
a sample of Tuberculin Diagnostic Solution, Concentrated
Dilution, Bovine Origin, Intradermic Method, Dr. Mallein
Test, Dr. Mallein Test Method, Dr. Mallein Test Solution,
Dr. Mallein Test Solution Method, Dr. Mallein Test Solution
Method, Dr. Mallein Test Solution Method, Dr. Mallein Test
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Shanghai, April 28th, 1902

Rev. Charles Leaman,

Chairman Executive Committee,

Presbyterian Mission,

Nanking, China.

Sir:

I hand you herewith copy of a letter received by me from the Prefect of Kinhwa, Kiliang, making complaint that Rev. H. G. C. Hallock has demanded punishment of 49 Chinese in Chekiang Province and that he has shot and wounded a man (Chinese) in that Province.

Upon receipt of this letter I sent for Dr. Hallock to come to my office. He was on an itinerating tour at that time and did not receive my letter and reach Shanghai until about two months after I wrote. I saw Dr. Hallock on April 12th last in my office, Minister Conger being present. Dr. Hallock told the story of the shooting practically as does the Prefect. He stated that he was returning to his boat with an escort of soldiers; that the rabble from two theathes followed him to the boat; that, after he had gotten on his boat, the people were massed on the bank and ridiculed and abused him and threw stones. In response to my questions Dr. Hallock said that neither he nor any one on his boat was struck with the stones; that he only saw one man struck; and that that man was

Shanghai, April 28th, 1902

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in the crowd on the bank. As the crowd continued abusive, Dr. Hallock drew a revolver from his pocket and pointed it at the crowd which at once drew back. Upon his returning the revolver to his pocket the crowd approached again and Dr. Hallock again drew the revolver and fired, he said "at the bank". The ball struck a Chinese man in the cheek, passing into his mouth and knocking out two teeth. Dr. Hallock took the man on board his boat and did all in his power to stop the bleeding; and offered then and afterwards to take the man to his hospital in Hangchow until cured; but the offer was not accepted.

I told Dr. Hallock that he was very much to blame, in my judgment, in demanding summary punishment of men believed by him to be guilty of wrong against native Christians. You will remember that at your missionary meeting in the fall of 1899, we all agreed that it is not the province of the Missionary to make demands on any of the officials or to interfere in the courses of Chinese justice. If the Prefect's only complaint was that Dr. Hallock had made demand on him for the punishment of 49 Chinese, Dr. Hallock would be gravely censurable.

That complaint however, is of small moment compared to the complaint regarding the shooting alleged and admitted. In Dr. Hallock's testimony with regard to that, I can

Shanghai, April 28th, 1902

Rev. Charles Leaman,

in the crowd on the bank. As the crowd continued shouting,

Dr. Hallock drew a revolver from his pocket and pointed

it at the crowd which at once drew back. Upon his returning

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Dr. Hallock's testimony with regard to [illegible]

find no justification for his action. It can not be claimed that the shooting was in self defense. Dr. Hallock was not struck by any stone; neither was any one on his boat; nor was anything broken on his boat. The only one Dr. Hallock saw struck was a man in the corwd and he was not struck severely. Dr. Hallock alleged that this complaint is made out of revenge for some other matter. The motive of the complaint cuts no figure. The fact and its surrounding circumstances are al l that we have to consider. The fact remains as stated by the Prefect and as admitted by Dr. Hallock that Dr. Hallock did shoot a Chinese during the summer of 1901. I can not find any sufficient provocation for such a deed.

When I saw Dr. Hallock I told him that I would ask you to remove him from his present field. In this Minister conger fully concurred. Since then I am informed that this was not the first time that Dr. Hallock has used a revolver in China. I am informed that shortly after the seige of Pekking, in some dispute about luggage in a station near Pekking, Dr. Hallock fired a shot from his revolver; that he was seized by the French Military Police, and taken to the Police station from which he was released with difficulty. The shooting then in Chekiang Province was not the first offense. The two times that Dr. Hallock used a revolver

in

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-3-

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and its surrounding circumstances are all that we have
to consider. The fact remains as stated by the Protest
and as admitted by Dr. Hallock that Dr. Hallock did shoot
a Chinese during the summer of 1901. I can not find any

hina must have occured within a twelve month.

I hope I need not emphasize to you the seriousness his case. You know wh at the penalty would be should mplaint be made in the Consular Court and the case en as Dr. Hallock related it. You know what we would in the shape of a punishment had a Chinese wounded an ican in the same reckless manner. I must then ask, revent friction with the Chinese jeopardizing the safty other Americans, and to preserve our reputation for tice, that you remove Dr. Hallock from Chekiang Province. ecommend strongly that the Board recall him to the ted States. In my opinion, his usefullness in China ended and his continued presence in China will injure influence of the Missions.

Personally, I regret extremely that I must bring this ter to you. I believe Dr. Hallock to be enthusiastic hard working, the lack of judgment and balance and the reme recklessness of action and carelessness of human e as shown in these two shootings, have brought me to e this request and recommendation.

I am sending a copy of this letter to Minister Conger, Department of State, asking the Department to forward opy to the Presbyterian Board in New York and to Dr. llock.

I am, Sir, your obedient servant,

John Goodnow
Consul General

I am, Sir, your obedient servant.

Yours truly,
Carl Sumner

No. 449 CONSULAR BUREAU.

RECD JUN 18 1902 DEPT OF STATE

3rd. ASST. SECRETARY. JUN 19 1902

Consulate-General of the United States,

Shanghai May 18, 1902.

Mr. Goodnow

To the Department of State.

ack by postal June 20-1902

Subject:

Rev. H.G.C. Hallock

Abstract of Contents.

Reporting approval of U.S. Minister -

Consular Bureau. JUN 19 1902

No. 449

Consulate-General of the United States,

Shanghai, May 18th, , 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my 448 of April 29th enclosing copies of letter regarding the complaint of the Prefect of Kinhwa against the Rev. H. J. C. Hallock;- I have to report that my action in the matter has been approved by the United Minister in Peking.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Consulate General of the United States,

Shanghai, May 18th, 1910.

No. 2

H. H. D. Peirce,

Chairman Standing Committee,

Dear Sir,

Referring to my despatch of April 20th enclosing copies of letter regarding the complaint of the Protest of Kinhwa against the Rev. H. J. C. Hollonbeck. I have to report that action in the matter has been approved by the United Minister in Peking.

I am, Sir, your obedient servant,

Consul General.

RECEIVED
JUN 18 1902
DEPT OF STATE

No. 450.

Consulate-General of the United States,

Shanghai May 19 1902, ~~189~~.

Mr. Goodnow

To the Department of State.

To J. D. Early-Smith
Carbon copy to Dept of Justice
with orig enc. June 20-1902.

Subject:

Plant. Winn and Butler -

Abstract of Contents.

Enclosing receipt of warrant for Plants pardon -
Not recommending pardon of Winn & Butler -

Consular Bureau.
JUN19 1902

No. 450

Consulate-General of the United States,

Shanghai, May 19th, 1902 189 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Acknowledging receipt of your No. 311 of April 16th enclosing the warrant for the pardon of Alfred Plant;- I have to report that I have delivered the pardon to Plant and enclose you herewith the receipt.

With regard to Butler and Winn, referred to in your No. 312 of April 17th, their conduct while in jail here was so bad that I can not recommend their pardon until they have earned it by good behavior in San Francisco. They should not, in any event, be allowed to return to China +

I am, Sir, your obedient servant,

John Goodnow

Consul General.

RECEIVED
JUN 23 '02
DEPT OF STATE

No. 451

See my memo on previous despatch of C.G. on the subject WMR

Consulate-General of the United States,

Shanghai May 22nd, 1902.

Mr. Goodnow

To the Department of State.

To Presby Bd. of For. Missions June 27-1902 with orig. ltr.

Subject:

in re The killing of a Chinaman by Rev H G C Hallock

to Pres Bd of Missions.

Abstract of Contents.

Enclosing letter from Committee

Consular Bureau.
JUN24 1902

RECEIVED
JUN 23 1902
DEPT. OF STATE

No. 451

See my memo on previous dispatch of C.G on the subject WMR

Consulate-General of the United States,

Shanghai May 22nd, 1902.

Mor. Goodnow

To the Department of State.

To Presby Bd. of For. Missions June 27-1902 with orig enc

Subject:

in re The Killing of a Chinaman by Rev H G C Hallock

to Pres Bd of Missions.

Abstract of Contents.

Enclosing letter from Committee

Consular Bureau.
JUN 24 1902

No. 451

Consulate-General of the United States,

Shanghai, May 22nd, , 190 2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my #448 of April 29th containing copy of my letter to the Presbysterian regarding a complaint from Kin-hwa against the Rev. H. G. C. Hallock, I enclose herewith letter just received from the Secretary of the Executive Committee (in duplicate), and would respectfully ask that you send one copy to the Board of Presbysterian Missions in New York City.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

C o p y.

Executive commitee of the Central China Mission
of the Presbyterian Church, U. S. A.

Shanghai, May 20th, 1902

Hon. John Goodnow,
Consul General, U. S. A.

Dear Sir:

In reply to your communication regarding Rev. H. G. C. Hallock, Ph. D., we beg to say that having carefully considered the matters referred to, and after hearing and questioning Dr. Hallock, and getting information from various other sources, we have reached the following conclusions.

1st. As to the action of Dr. Hallock in shooting a Chinese, while the facts are practically as stated in your letter, yet there are extenuating circumstances. Dr. Hallock undoubtedly thought that he was in grave danger, and the shot fired was intended to only frighten the mob. It was a mere accident that the shot passed through a mat shed and struck an unseen man. The crowd seems to recognize that Dr. Hallock had no evil intent, and themselves requested his assistance in attending to the man's wound, which assistance Dr. Hallock gladly gave.

2nd. As to the drawing of a revolver at Tientsin while no shot was fired we can not justify Dr. Hallock in this unwarranted use of a weapon, even though he may have had some provocation.

3rd. As to the management of the cases before the Yamenwe feel that Dr. Hallock has not shown a proper an conciliatory spirit, and regret that his management of these cases has produced unnecessary friction.

Pending action by our Annual meeting and by our Board at New York in reference to his removal from Chekiang Province, or his recall from China, we have withdrawn Dr. Hallock from his work in his present field in the

country districts of Chekiang, and have directed that his labours be directed to the city of Hangchow.

We sincerely thank the Consul General for his kind and considerate treatment of this case, and venture to express the hope that he will not take further action in Mr. Hallock's case until this matter can be considered by the Mission and by our Board of Foreign Missions.

In order that amicable conclusion of the Pao-kiang difficulties may be speedily reached, we further request that the Consul General urge upon the Yin-hwa foo the necessity of bringing about a settlement of the matters at issue at the earliest date possible.

(signed) J. A. Silsby,

Sec. Executive Committee.

DEPARTMENT OF STATE

TELEGRAM RECEIVED.

ASSISTANT SECRETARY,

JUN 3 1902

Rec'd 9:12 AM 1902 Govt.

CLERK'S OFFICE
RECEIVED

From Shanghai,

June 3,1902.

Received 3:20 am. M.

SecState,

Washington.

Doctor orders two weeks Japan; can arrange here satisfactorily. Wire permission.....Goodnow.

Asst. Sec. leave granted June 3, 1902.

Asst. to Auditor June 4 '02

Consular Bureau
JUN 3 19

CONSULAR BUREAU.
NOTED.

CONSULAR BUREAU
RECD
JUL 2 1902
DEPT OF STATE

No. 4

Consulate-General of the United States,

Shanghai, 3rd June, 1902

Mr. John Goodnow,

To the Department of State.

Ackdg from July 16/02

Subject:

Certificate of Marriage of C R Bennett and Mary Rufsum

Abstract of Contents.

Consular Bureau
JUL

No. 4

Consulate-General of the United States,

Shanghai, 3rd, June, 1902.

Honorable A. A. S. Price,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to transmit herewith a marriage certificate of Charles Robert Bennett and Mary Elizabeth Rogerson.

I have the honor to be

Sir.

Your obedient servant.

John Goodnow

Consul General.

Enclosure:- 1. as above mentioned.

DEPARTMENT OF STATE

CERTIFICATE OF MARRIAGE

CONSULAR BUREAU
NOTED

Consular Office of the United States of America

SHANGHAI, CHINA Mch - 12 1902

I, John Wordsworth Consul-General of the United States at Shanghai, China, do hereby certify that, on this 12th day of Mch A. D., 1902, at The Cathedral in the city of Shanghai, Charles Robert Bennett, aged 24 years, born in Shanghai China and now residing in Shanghai China, and Mary Elizabeth Royerson, aged 21 years born in Shanghai China, and now residing in Shanghai, were United in Marriage before me, and in my presence, by Rev H Hodges, who is authorized by the laws of England to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this 12th day of Mch, A. D. 1902, and of the Independence of the United States the 126th

[L. S.]

John Wordsworth
Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



CONSULAR BUREAU
NOTED

No. #

Consulate-General of the United States,

Shanghai June 3, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Death of A P Waugh

Abstract of Contents.

Official report.

Acted by Legation July 19. 1902.

Consular Bureau
JUL 1902

No. #

Consulate-General of the United States,

Shanghai, June 3rd, 1902 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith, in duplicate, report of the death of Alexander Patersen Waugh.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

(Enc.)

CONSULAR BUREAU
NOTED

(FORM NO. 192.)

Report of the Death of an American Citizen

Consular Service, U. S. A.

Shanghai May 30 1907

Name: Alexander Patterson Waugh

Native or naturalized: Native

Date of death: May 29 1907

Place of death: Shanghai China

Cause of death: General debility

Disposition of remains: Bubbling Well Cemetery

Local law as to disinterring remains in case it is desired to bring them home:

Can be done

Disposition of effects: No effects

Address of family: Washington

Family notified: No

Accompanied by relatives: No

This information, inventory, accounts, etc., recorded in Miscellaneous Record Book, page 230

Remarks:

[SEAL.]

Consul-General of the United States.

(Form No. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*....

Duplicate

(FORM NO. 192.)

CONSULAR BUREAU NOTED.

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Consular Service, U. S. A.

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Family notified: no

Accompanied by relatives: no

This information, inventory, accounts, etc., recorded in Miscellaneous Record Book, page

Remarks: ~~Decent work~~

John Goodnow

[SEAL.]

Consul-General of the United States.

(FORM NO. 192.)

CONSULAR SERVICE, U. S. A.

AT

SHANGHAI, CHINA

Report of the Death of an American Citizen

Enclosure No......*in despatch*

No......

....., *190*.....

DIV. OF RECDS
JUL 2 1902
DEPT. OF STATE

No. 457

Consulate-General of the United States,

Shanghai June 3, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Abstract of Contents.

Enclosing copy of #417 to US Minister -

Consular Bureau
JUL 5 1902

No. 452

Consulate-General of the United States,

Shanghai, June 3, 1902 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith for your information and consideration a copy of my No. 417 to Hon. E. H. Conger, U. S. Minister at Peking, with four enclosures.

The dispatch is a full account of the contention of the Municipal Council against the Consular Body in Shanghai.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Helen Gray Cone,
Second Reader.

C O P Y.

No 417.

June 1st,

Hon. E. H. Conger,

E. E. & M. P., U. S. A.

Peking, China.

Sir:

I hand you herewith the official letters leading up to the special meeting of Ratepayers held on May 16th; the speeches made at that meeting; and the recent correspondence showing the present situation. I would especially call your attention to my letter of May 12th to H. B. M's Consul General Mansfield, in connection with which I would ask you to read this dispatch.

There is a Mixed Court in the French Settlement and one in the International Settlement. In the theory of the Courts any Assessor is privileged to sit in either Court if a case involving an interest of one of his Nationals is on trial. As a matter of practice, it has developed that the French Assessor sits in all cases in the French Mixed Court; and the English Assessor sits three days in the week, the American Assessor two days, and the German one day, in the International Mixed Court is cases brought by the Police or where foreign interests are directly concerned. Any other Assessor can sit in the place of either one of these if a case involving his National interest is on trial. Ordinarily speaking, the other Nationalities leave their minor cases to the three above named Assessors. Cases involving o other foreign interests than French have in my time always been tried in the International Mixed Court. The Chinese look at these two Settlements as one so far as their judiciary is concerned.

The Mixed Court Magistrate in writing to me says that the Chinese "consider the two Courts as one family". (See my letter to Mr. Mansfield).

In 1868 and agreement was made by the Consuls in Shanghai and confirmed by the Diplomatic Body, that the Police of either Settlement could make arrest in the other Settlements without reference to the Police of that other Settlement. The present practice is that the police of one Settlement, having a warrant against a person in another Settlement, take the warrant to the police of that Settlement for execution. The police have hitherto turned over the offender to the Court issuing the warrant without delay or formality.

In 1898 the so-called "Reformers" came to Shanghai for safety. An attempt was made to take some of them from the Settlements to be tried before the Chinese Court in the native city of Shanghai on warrants purporting to be for civil causes. In order to check this (and for no other reason) the Consular Body then decided that no Chinese should be taken from the Settlement without a preliminary hearing at the Mixed Court. By this means the real nature of the charge could be brought out. On account of this publicity to be given no further attempt was made to get at the members of the Reform party who had come to Shanghai. In this matter the two Settlements acted as one. The French Consul General sat in the Consular Body of the International Settlement when the rule was made; and he immediately made the same rule in the French Settlement. In making this rule in the International Settlement, the French Settlement was not in our minds. The sole thought was to protect the Reformers from being taken to the Interior away from foreign knowledge.

On all warrants issued by either Mixed Court for execution in the International Settlement the signature of the Senior Consul is required. This was intended as a certificate that the warrant was really signed by the Mixed Court Magistrate according to the Rules governing the Mixed Court. It was not intended to prevent the Chinese Magistrate from exercising his Treaty right of trying his own Nationals under the Chinese laws. In case a warrant of the International Mixed Court is to be served in the French Settlement, the Senior Consul first signs it, then the French Consul General signs it, and the French police execute it in conjunction with the runners from the International Mixed Court. A like proceeding is followed with warrants issued by the French Mixed Court against Chinese in the International settlement. No confusion or friction has arisen out of this practice. You will note ~~that~~ in my letter to Mr. Mansfield that during the last nine years 283 warrants of the French Mixed Court in civil and criminal cases have been served in the International Settlement. To minimize extortions it has been agreed by the Chinese and the Consular Body that the Yamen runners and the police must serve warrants of the Mixed Court together. The warrants against foreigners are served by the respective marshalls or by the Police, if the Consul so requests.

The police have never before refused to execute a warrant. They have, however, been requested by the several Senior Consuls to hold any warrant which appeared to them signed on insufficient or inaccurate information; and to bring the warrant back to the Senior Consul for re-investigation.

The history of the case which has brought about the present friction is told in my letter to Mr. Mansfield. The letter of the 2nd of May from the Senior Consul to

which the Council objects, was not written by me but was adopted in the form in which it was finally sent to the Council by a unanimous vote of the Consuls on roll call. The letter of May 27th not concurring with the Resolution adopted by the Ratepayers Meeting was agreed to by the Consuls in the terms in which it was sent to the Council also on roll call and unanimously. All members of the Consular Body were present in both cases; and all voted.

I desire particularly to call your attention to the fact that the Consular Body has been and is absolutely unanimous. Even the British Consul General, on whom great pressure has been brought by his Nationals who are members of the Council and by those of his Nationals who have a continuing hatred against the French, has agreed entirely with all his Colleagues. The letter of May 12th to Mr. Mansfield received the approval of the Consuls General for Great Britain, Germany, France, Belgium, and Denmark before it was sent. All the others of the Consular Body have expressed their approval since.

I desire to call your attention also to the smallness of the matter at issue. All parties agree as to the precedents in the past. All parties agree as to the necessity of dividing the jurisdictions of the Courts of the two Settlements. You will note that when Messrs. Bayne and Bland came to me in the first instance, I promised them that the Consular Body would take the matter up immediately. The Consular Body has a Committee at work preparing a plan of division of jurisdiction of these two Courts which plan will be submitted to the Diplomatic Body for approval as soon as it can be completed. The Council insists that the present and past practice of enforcing warrants of these Courts shall be discontinued

immediately,, no matter what friction is thus created with the French Settlement and with other Chinese Jurisdictions. The Consular Body insists that the present and past practice in this matter must be continued until it can be properly changed by the Diplomatic Body at Peking as representing the Powers, and the Chinese Government.

Difficulties have already arisen with other Chinese Jurisdictions. The City Magistrate (of the native city) already insists that no offender can be arrested in the native city and brought to the Settlement without a preliminary hearing before his Court. The British and American Consulates have had in hand for a long time cases against a resident of Ningpo involving Taels 120,000. We have hitherto insisted that it must be tried here. Now, I am infirmed, that the Chinese will insist that it must be tried in Ningpo, the residence of the offender. This will make vastly greater expense to the foreigners interested; and will practically make it impossible for the Consulate to be represented at the trial. The Consuls had hoped to make an arrangement between the two Settlements quietly, so that our status in these other matters would not be affected.

In spite of the fact that all action in this matter has been taken by the Consular Body as a whole by unanimous vote, the Council has chosen to make it the occasion for a personal attack on me. You will remember, that the Council is always composed of 7 British and 1 American and 1 German who are elected by the British. Unfotunately, I have had some lawsuits before me which I could not decide according to the contention of the Council. For example, in the "Kingsmill case" referred to in the speech of the Chairman of the Council I have held that a title deed given by the Taotai can only be attacked in the

Taotai's Court. This has been repeatedly held in the British and German Court and in this Court in other cases. In this case, however, the Council was the Plaintiff and desired to attack the title in the U. S. Court. You will remember the Dunning case and the Public apology which the Council had to make for its expressions used in its annual report. The Chairman of the Council makes it as an accusation that I take every opportunity to increase my authority and influence as U. S. Consul General with the Chinese. This is certainly true on general principles. The "typical instance" quoted in the Chairman's speech, however, was the action of the Consular Body, not mine; and was not as stated in the Chairman's speech but was as my answering letter stated. The article in question was not an attack on Confucianism, but was a very indecent article. The head and front of my offending to the Council is that I am an American, the Senior Consul, close with the Chinese, and will not do as I am told unless I think my action will be right and for American interest.

If I have not made myself clear on every point, I will be glad to do so at your request.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

(4 encs.)

Consular Service, U.S.A.
Shanghai, 12th May.

DEAR MR. MANSFIELD,—I must apologise to you for not sooner answering your letter of May 6th. It arrived the day after I left for Nanking, from which place I am now only just returned.

The recent publications of the Council cover two distinct cases: the case re the coolie of U. Pila & Co., and the Tai Sun-chong case. As to the first case, I wrote the Council on May 2nd that it had been referred to a Committee (yourself and Dr. Knappe) "to end avour to make with the authorities of the French Settlement such satisfactory arrangements as will preserve the entente cordiale between the two Settlements which is so essential to the prosperity of Shanghai." This Committee is to consider all matters in question between the two settlements. As this case, then, is under amicable discussion and will probably be arranged satisfactorily and equitably, the publication of the correspondence at this time is unfortunate, tending only to confusion and rendering its settlement more difficult.

The Tai Sun-chong case and the correspondence arising from it can only be clearly understood by a consecutive narration of the proceedings. Publication of letters out of their sequence only tends to misunderstanding. On April 17th, as Senior Consul, I stamped a warrant of the French Mixed Court against four members of the Tai Sun-chong Company. This Company is Chinese and the members so summoned were all Chinese. On April 18th the Manager of the Company applied to the "Municipal Office" for protection (see minute in Council's publication, May 5th). On April 19th the Secretary of the Council called at my office with the warrant and asked me to cancel my countersignature. He alleged that the plaintiff in the case was the mistress of the Chinese Magistrate of the French Mixed Court and that, therefore, the case could not have a proper hearing in that Court. Under this representation I cancelled my countersignature and thanked Mr. Bland for calling my attention to the case and told him that I would always take it as a personal favour to me if the Police would hold any warrant which seemed to them signed on insufficient information and report to me any facts in their possession, so that I might make further investigation and avoid injustice. Later Capt. Boisragon called in the matter and I told him the same thing. In this attitude toward the Police I followed the practice of Dr. Steubel and Mr. Valdez, who have been Senior Consuls in my time (see Mr. Welch's letter to Mr. Valdez dated Nov. 21st, 1898, and published by the Council May 8th, 1902).

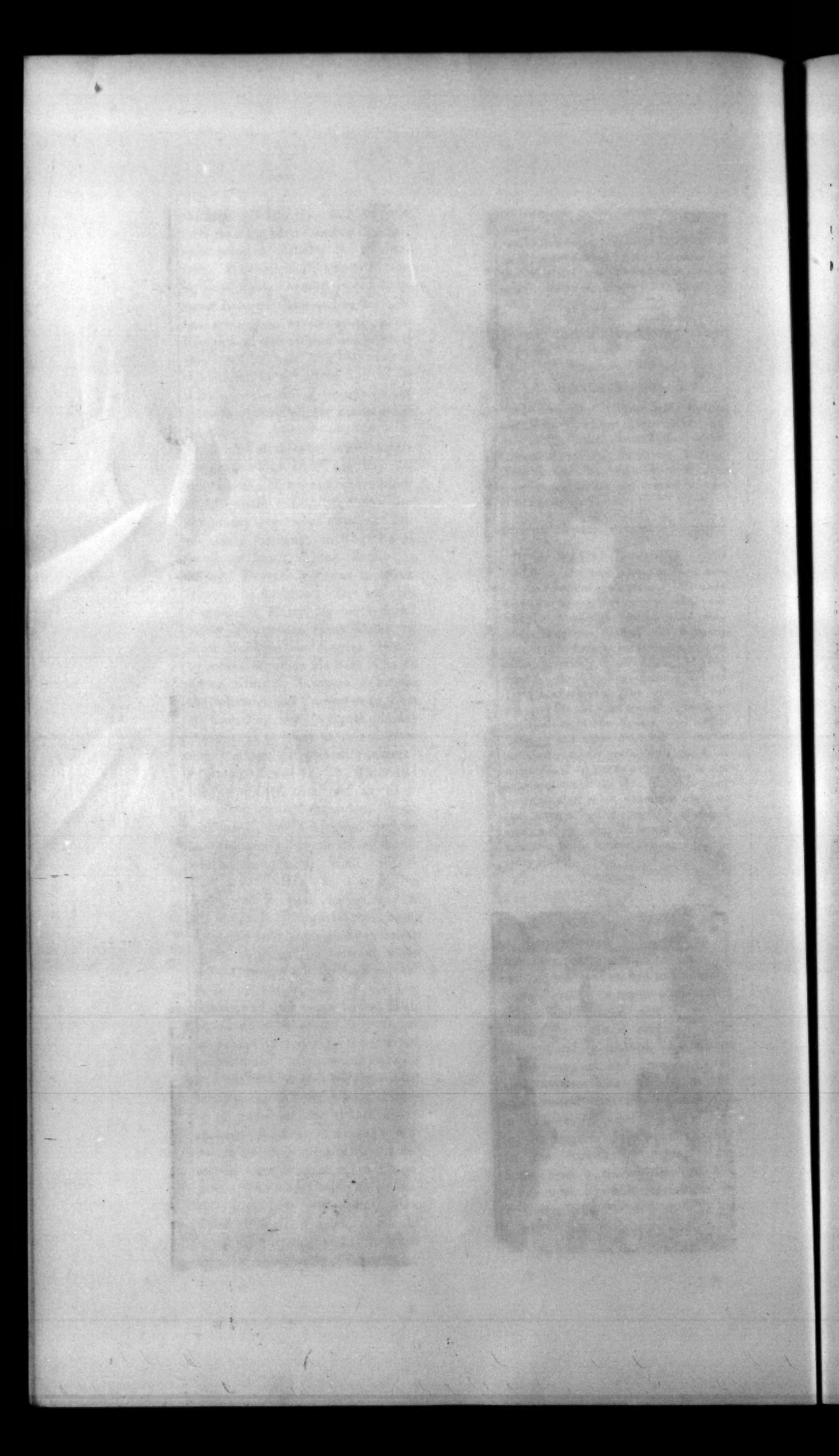
I was out of town until April 24th. On returning, I found a letter from the Mixed Court Magistrate of the International Settlement complaining that inconvenience was being caused by the conflict between the two Settlements. He said, "Although the two Settlements are separate, yet the Chinese conduct public affairs as though they were one family. I hope you will sign the warrants of the French Mixed Court so that the French authorities will sign mine." On looking through the Senior Consul's records I found that warrants of the French Mixed Court have been signed by the Senior Consuls against Chinese defendants residing in the International Settlement during all the years in which such record has been kept, as follows:—

	Civil cases.	Criminal cases.
1893	4	2
1894	4	5
1895	12	8
1896	14	12
1897	21	11
1898	37	14
1899	34	18
1900	25	10
1901	32	20

Many of these warrants are on all fours with the one now in question. During these years warrants of the International Mixed Court against Chinese resident in the French Settlement had been signed whenever asked for.

Under these circumstances I asked Messrs. Bayne and Bland to come to my office, which they did on April 26th. In a long, and, as I supposed, friendly talk, I told them of the precedents which made an unbroken custom extending over at least ten years. I showed them the list of warrants of 1896, which I happened to have on my desk when they came in. I pointed out the impossibility of changing an established custom in a day, and suggested the advisability of continuing as before until we could arrive amicably at a division of the jurisdiction of the two courts. I further told them that I would do all in my power to secure such division of jurisdiction as would avoid any possible friction in the future. Both agreed that this seemed the advisable course..

The matter of the Tai Sun-chong warrant was then brought up by Mr. Bland. I told them that I would carefully investigate the matter and would not sign the warrant until I was thoroughly satisfied that justice would be done. On April 28th, I saw the Assessor of the French Mixed Court who told me that the plaintiff was the wife (or widow) of a former magistrate of that Court: that he would sit in the case, and that the trial would be public. I then signed and gave him the warrant. Next morning I met Mr. Bayne on the street and told him what I had done. He made no objections. Imagine my surprise, then, when at 11 a.m. Mr. Freer came to tell me that the



Police had again put off the service of the warrant. I called up by the telephone the Capt. Supt., who said that he could not execute it without special instructions from the Secretary's office. A few minutes later Mr. Bland called me up and said that the Watch Committee would meet at noon to consider the matter and that he would inform me of their decision. I pressed him for the reason why they were unwilling to execute this particular warrant, and he said that the principal reason was that Farnham, Boyd and Co. were interested. I asked why I had not been told this before, the matter having then been in hand ten days. He said that he had only found it out that morning. I finally told him to tell the Watch Committee that the warrant should be executed. The Watch Committee referred the matter to the Council, which sent me the letter of April 29th, refusing to execute the warrant until further reference of the case to the Consular Body. Then came the Council's letter of May 1st of the same tenor. These were carefully considered by the Consuls at their regular monthly meeting of May 1st, and a proposed answer was considered, fully discussed, and agreed to unanimously on roll call in the terms in which it was sent to the Council on May 2nd. All Consuls were present at the meeting except the representative of Italy. Since that time the Consuls have received two letters from the Council, to which no reply has been sent.

I am at a loss to understand why this particular case should be considered so important as to be excluded from the modus vivendi agreed upon by Messrs. Bayne, Bland and myself on 26th April, which simply continued an existing custom until a permanent modified arrangement could be made. I can only discuss the five reasons given in the Council's letter of 1st May and the enclosures in its letter of 8th May.

1.—That the case was too important for the Senior Consul to sign the warrant without reference to his Colleagues. The Senior Consul had plain precedents to guide him and the maximum claim in the suit is Tls. 3,000. If heard in the French Mixed Court a foreign Assessor of unimpeachable integrity sits with the Chinese magistrate in the case. Had the case been heard in the International Mixed Court the Chinese Magistrate would have sat alone. In either case from my knowledge of the personnel of the Courts, I believe justice would be done. It is impossible for all the Consuls to consider warrants. Hence that duty falls on the Senior Consul who is responsible to his colleagues for such signature. The Senior Consul has never been arbitrary nor self-sufficient with regard to warrants, but has, as related above, welcomed information from all sources and especially from the police who have especial facilities for gaining information. If after full consideration of any warrant, the Senior Consul signs it, it must be executed without further delay.

2.—That the so-called agreement of 1898 was intended to apply as against the French Mixed Court. I can say without fear of contradiction that the French Mixed Court was not in the minds of the Consuls when they decided that no Chinese should be sent out of the Settlement without a hearing at the Mixed Court. The French Consul-General agreed to our decision and made a like ruling in the French Settlement. If further proof were needed of this than the recollections of the Consuls now in Shanghai who were here in 1898, it is found in the fact that the Senior Consuls have stamped 144 warrants of the French Mixed Court since that time, some being stamped in every month but two, since that agreement was announced. The French Consul-General has also stamped warrants of the International Mixed Court since that time. The decision of the Consular Body announced in Mr. Valdez' letter of 24th November, 1898 (published 8th May, 1902) was based on reasons well known at the time, but which I do not deem it wise to reiterate now. Suffice it to say that the decision was a good one for the purposes intended: has served a good purpose and should still be enforced as intended, that is with regard to all cases to be taken from the *Settlements* of Shanghai.

3.—That foreign interests are involved. This was only put forward twelve days after the warrant was first signed and I do not find that anyone has taken it as intended to be very serious.

4.—That a modus vivendi could only be reached by the Consular Body. A modus vivendi was reached as I have related, but was upset temporarily by the action of the Council in refusing to execute a particular warrant under that modus vivendi.

5.—That it is the "concern of the Municipality to protect the well being and treatment of law abiding native residents and tax payers." That is axiomatic and any municipality only exists to care for its residents and taxpayers. It does not follow that it is the province of the Municipality to decide who of its residents are law abiding. That is the province of the Courts. For example, it is the duty of the Municipality to care for its British residents and taxpayers. No Britisher can however be arrested or punished except by his own Courts. No one except a higher British tribunal can hinder the British Court from exercising its authorities over British citizens. I do not think that any one will endorse the proposition in the "N.-C. Daily News" of May 12th that "it is an established principle that only the Municipal Police can execute warrants, foreign or native, bearing the necessary Consular endorsement." This principle as applied to Chinese jurisdiction is clearly laid down in Mr. Valdez' letters to the Council published 8th May 1902. These letters of 1898 and 1900 are exactly the standpoint of the Consular Body now. May I restate them?

The Chinese Courts only have jurisdiction over the Chinese. When foreign interest is sufficiently shown, the Consul of the foreigner concerned is entitled to representation in the Court. The Mixed Court of Shanghai is established under certain rules; to secure the observance of these rules, the signature of the Senior Consul is required to warrants against Chinese in the International Settlement. To prevent irregularities, warrants are served by the magistrate's runners and the Police. To aid the Senior Consul, the Police have by the various Senior Consuls been requested "that whenever they have good grounds for considering a warrant to be issued as a result of misapprehension, or malpractice on the part of the native officials, its execution is to be delayed pending reference and explanation of the facts by the Council to the Senior Consul" (Mr. Welch's letter 21st November 1898 and my statements to officials of the present Council). Only the Courts can determine the jurisdiction of the Courts. No Council, until the present one, has claimed the right to refuse to execute a warrant of a Chinese Court duly countersigned after full consideration by the Senior Consul, or to determine a question of jurisdiction. To allow this would be to make the Council the Court for the Chinese and would nullify the treaties.

I have written you thus fully, as apparently the China Association have misunderstood the position of the Consular Body and have misconstrued our letter of May 2nd.

JOHN GOODNOW.

THE MUNICIPAL COUNCIL.

The following correspondence is forwarded by the Council for publication :—

Central Police Station,
17th March, 1902.

SIR,—I have the honour to request that you will be so good as to stamp the enclosed summons. This summons is for the appearance at the Mixed Court of this Settlement of eight men, who are charged with a breach of Municipal Regulations in depositing garbage during prohibited hours. One of these men is employed by Messrs. Ulysse Pila & Co., a French firm.

However, the offence having been committed in this Settlement, the case must, necessarily, be tried by the Mixed Court of this Settlement.

I will let the French Assessor know when the case will be brought before the Mixed Court, so that he can be present during the proceedings.

I have the honour to be,
Sir,
Your obedient servant,
A. M. BOISRAGON, Captain,
Captain-Superintendent of Police.

M. RATARD,
Consul-General for France.

Consulat Général de France.
Shanghai le 19 Mars, 1902.

MONSIEUR,—J'ai l'honneur de vous accuser réception de votre lettre du 17 courant par laquelle vous me demandez de contresigner une citation à comparaître devant la Cour mixte de la Concession internationale, délivrée pour infraction aux réglements municipaux contre un coolie de la maison française Ulysse Pila, de cette ville.

Les instructions péremptoires du Ministere des Affaires Etrangères défendent au Consul Général de France de se transporter pour siéger comme juge en Cour mixte en dehors de la Concession française, et dans ces conditions, il vous est loisible de poursuivre le coolie dont il s'agit devant la Cour mixte française.

Dans le cas récent du sujet grec, protégé français, je n'ai consenti à ce que Mr. Teer, mon délégué, allât siéger à la Cour mixte du "Settlement" International, qu'à la demande expresse de Mr. Wilkinson, assesseur anglais, et sans la condition de ne pas former un précédent en la matière.

Je vous retourne, en conséquence, le mandat qui était joint à votre lettre du 17 de ce mois.

Agréez Monsieur, l'assurance de ma considération très distinguée.

L. RATARD.

Monsieur le Capitaine de BOISRAGON,
Surintendant de la Police de la Concession internationale a Shanghai.

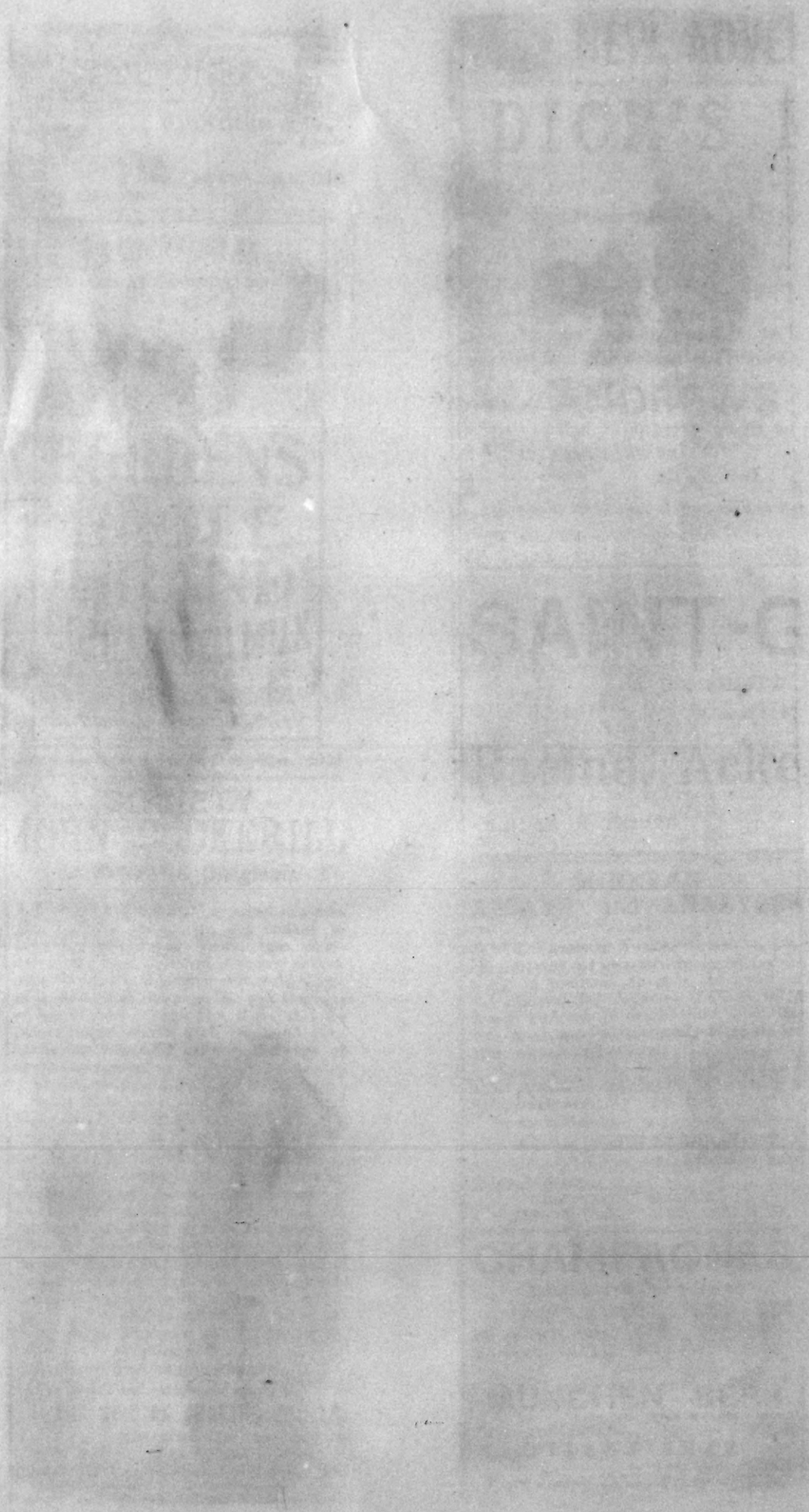
Council Room,
Shanghai, 29th March, 1902.

SIR,—I have the honour to address you in the matter of your letter of the 19th instant, addressed to the Captain Superintendent of Police, referring to an application made to you by that Officer for your counter-signature on a summons against a Chinese coolie in the employ of Messrs. Ulysse Pila and Co., a French firm domiciled in the Foreign Settlement. This matter was discussed at the meeting of the Council, and noting your refusal to endorse the summons for the defendant to appear before the Mixed Court of the Foreign Settlement, and your claim that such cases must be tried at the French Mixed Court, the Secretary of the Council was instructed to call upon you and, while pointing out the Council's objections to the introduction of such procedure and its prejudicial effect upon the administration of the Foreign Settlement, to endeavour to obtain reconsideration of your views in this important question. From a report submitted by the Secretary subsequent to his interview with yourself, the Council learns with regret that you are unwilling to modify your claim to jurisdiction in regard to Chinese subjects in French employ and to exercise that jurisdiction in the French Settlement, i.e. to remove such defendants beyond the jurisdiction established and recognised as the authority to which, as residents in the Foreign Settlement, they are properly amenable.

On behalf of the Council I have now to ask your reconsideration of this question on the following grounds:

By an additional article of U. S. Treaty of 1869, it is expressly laid down that the grant of Foreign Settlements or Concessions by China shall "in no event be construed to divest the Chinese Authorities of their right of jurisdiction over persons within said tract of land except so far as the right may have been expressly relinquished by Treaty." Subject to existing conventions the Chinese right of jurisdiction clearly covers and includes the right to determine both method and place for proceeding against Chinese subjects.

In the existing Regulations of the Mixed Court, established and recognised by the Powers for the administration of justice in the Foreign Settlement, it is laid down in Article 3:—"Where a defendant is a native in foreign employ, the Sub-Prefect will first communicate particulars to the Consul of the Nationality concerned who will be bound to place the parties before the Court, etc. The Consul or his Deputy may attend the hearing but he shall not interfere if no foreign interest is involved."



The Council notes that, under instructions of the Ministry of Foreign Affairs, the French Consul-General is not permitted to "sit as a judge outside of the French Settlement." Bearing in mind, however, the fact that in cases against Chinese subjects the official representative of the foreign interest concerned sits, not as judge, but as assessor; furthermore that it is the usual practice of the Members of the Consular Body (of which the French Consul General is a member) to send their Deputies to the Court for such cases, the Council trusts that you may see your way to reconcile the adoption of such procedure with the instructions of the French Government. It is conceivable that in cases of especial importance, a change of "venue" to the Mixed Court of the French Settlement might commend itself both to the French and the Chinese Authorities as a matter of courtesy and as desirable on general grounds; but in the absence of formal assent by the Chinese Government and of instructions in a similar sense from the representatives of the Powers interested in the local Government of the International Settlement, the admission of a specific claim to such procedure, as a matter of right, is one which can scarcely be admitted.

The Municipal Council, acting under the authority of Land Regulations which have received the endorsement of the French Government as well as that of the other Treaty Powers, is entrusted with certain executive duties for "the better order and good Government of the Settlement." By virtue of the same Regulations a Police Force is established and local Regulations made for general observance, and in dealing with Chinese defendants it is the established practice, and of right self-evident, that they be brought before the Court having jurisdiction within the limits in which such defendants are domiciled or where their offence was committed. In the present instance the coolie in the employ of Messrs. Ulysse Pila & Co., was to be summoned for depositing garbage in the streets at unlawful hours, and your refusal to endorse the summons opens up very serious questions of local administration. It is evident that however cordial and reciprocal the relations between the two Settlements, the regulations on this side of the Yang-King-Pang might in some respects differ from those of the French Municipality; also that the Chinese Authorities of the French Mixed Court might lack, in dealing with cases arising out of offences committed in the Foreign Settlement, a proper sense of responsibility. On the other hand, the attendance of a French Assessor at the Mixed Court, to deal with cases where French interests are involved is in conformity with the established practice of the Consular Body, with existing conventions, and with the necessities of the case.

It is an admitted principle in local administration, which the Consular Body consistently upholds vis-à-vis the Chinese Authorities, that native residents in the Foreign Settlement cannot be taken for trial or punishment beyond the limits of the Settlement except after a formal hearing at the Mixed Court. At such hearing it would be proper for the Magistrate, with the Assessor's consent, to order the proceedings to be transferred to another court if necessary, but it would be an unnecessary stultification of all existing procedure if the authorities of the French Settlement could claim privileges of jurisdiction over Chinese subjects in the Foreign Settlement which are not claimed by the representative of the Chinese Government.

In this connection, and in conclusion, I have the honour to refer you to a statement made in June 1900 by the French Ambassador in London, recorded in official correspondence at that time, to the effect that the French Settlement does not imply any special privileges to French citizens, and to point out that, *a fortiori*, none can be claimed for French citizens —much less for their Chinese employes— resident in the Foreign Settlement.

Under these conditions, I have the honour to express the Council's earnest hope that you may reconsider your decision in this matter.

I have the honour to be,
Sir,
Your obedient servant,
WM. GEO. BAYNE,
Chairman.

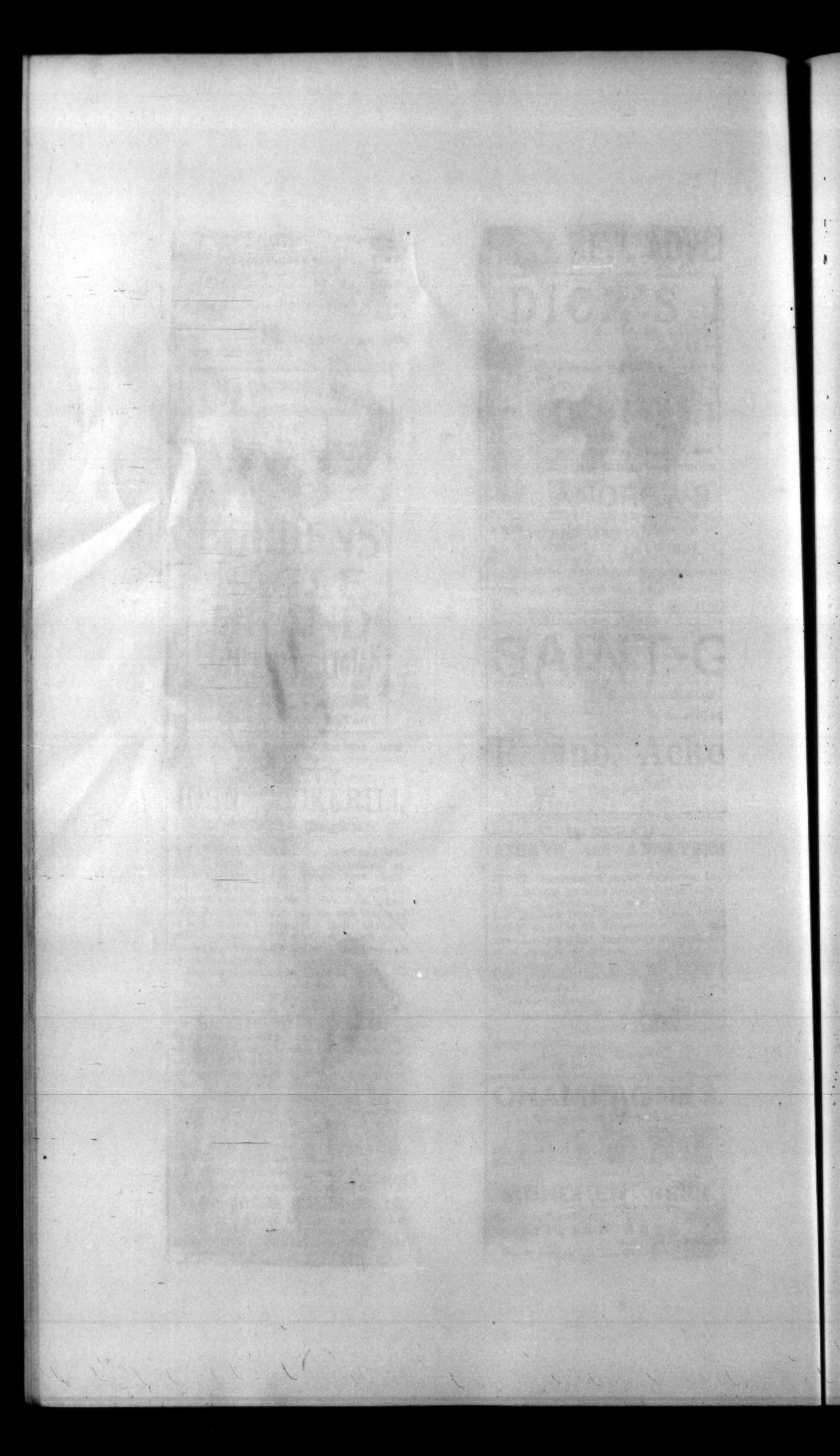
L. RATARD, Esq.,
Acting Consul-General for France.

Council Room,
Shanghai, 17th April, 1902.

SIR,—On behalf of the Council I have the honour to forward for the information of the Consular Body copy of a communication addressed to the Acting Consul-General for France on the 29th ultimo, to which no reply has been received.

In the absence of recognition by the Chinese Authorities of Monsieur Ratard's claims, and without a definite understanding arrived at on the subject by the representatives of the Powers concerned in the administration of the Foreign Settlement, the Council is unable to admit the French Consul-General's right to special jurisdiction over Chinese subjects employed by French residents in this Settlement. The Council ventures to express the hope that the Consular Body will support the views expressed on the question in the enclosed letter and that the matter may in this way be settled in conformity with established practice and that principle of uniformity which necessarily underlies the good administration of this cosmopolitan community.

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Your obdedient servant,
WM. GEO. BAYNE,
Chairman.



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Under these conditions, I have the honour to express the Council's earnest hope that you may reconsider your decision in this matter.

I have the honour to be,
Sir,
Your obedient servant,
WM. GEO. BAYNE,
Chairman.

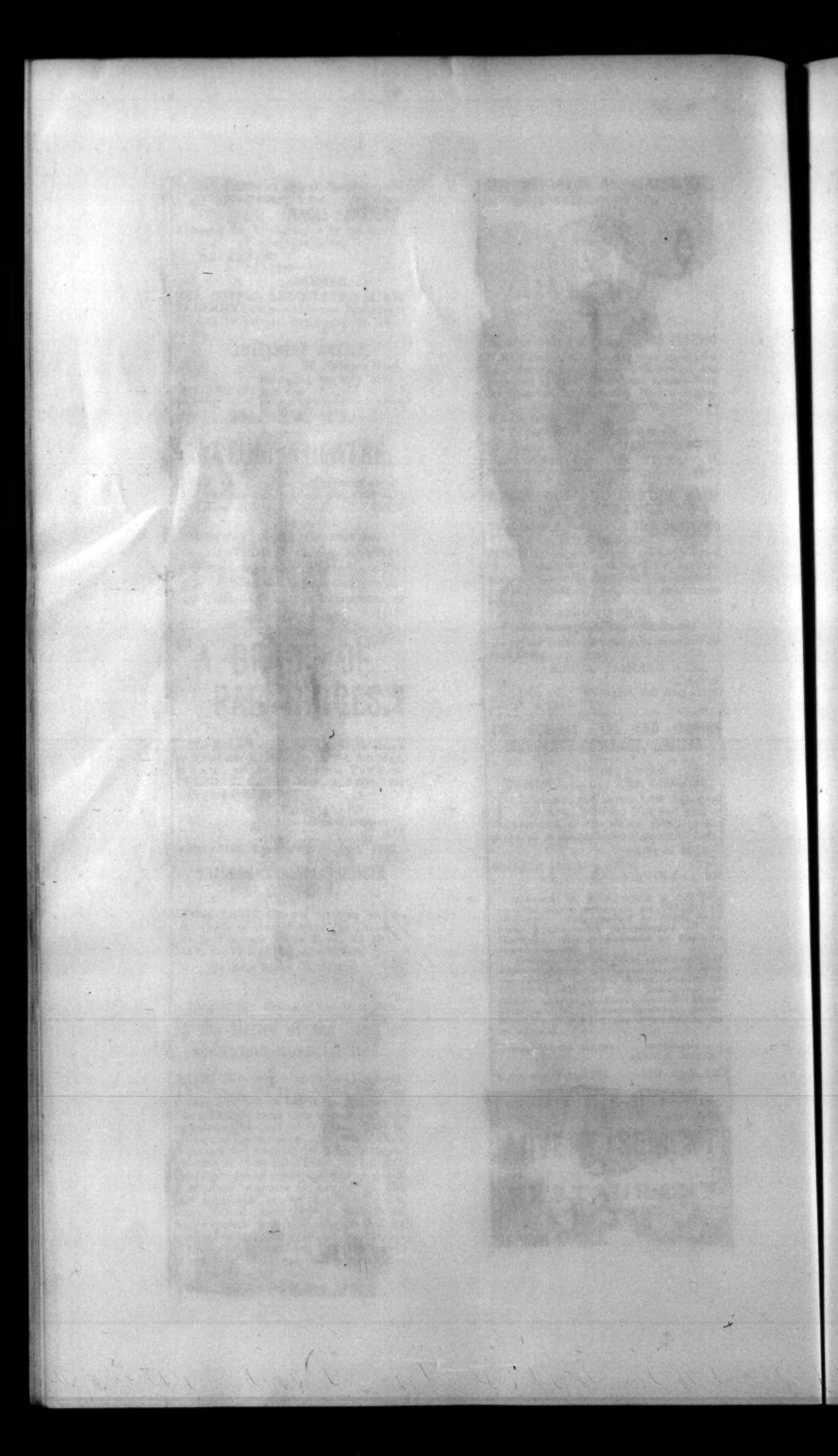
L. RATARD, Esq.,
Acting Consul-General for France.

Council Room,
Shanghai, 17th April, 1902.

SIR,—On behalf of the Council I have the honour to forward for the information of the Consular Body copy of a communication addressed to the Acting Consul-General for France on the 29th ultimo, to which no reply has been received.

In the absence of recognition by the Chinese Authorities of Monsieur Ratard's claims, and without a definite understanding arrived at on the subject by the representatives of the Powers concerned in the administration of the Foreign Settlement, the Council is unable to admit the French Consul-General's right to special jurisdiction over Chinese subjects employed by French residents in this Settlement. The Council ventures to express the hope that the Consular Body will support the views expressed on the question in the enclosed letter and that the matter may in this way be settled in conformity with established practice and that principle of uniformity which necessarily underlies the good administration of this cosmopolitan community.

I have the honour to be,
Sir,
Your obdedient servant,
WM. GEO. BAYNE,
Chairman.



Consular Service, U. S. A.,
Shanghai, May 2nd, 1902.

SIR,—Replying to your 02/210 of April 17th, I have to inform you that it has been referred by the Consular Body to a Committee to endeavour to make with the authorities of the French Settlement such satisfactory arrangements as will preserve the entente cordiale between the two Settlements which is so essential to the prosperity of Shanghai.

I am, Sir,
Your obedient servant,
JOHN GOODNOW,
Senior Consul.

W. G. BAYNE, Esq.,
Chairman, Municipal Council,
Shanghai.

Head Office,
Shanghai, 29th April, 1902.

DEAR SIR,—Referring to the case pending against Messrs. Tai Sun Chong for recovery of value of clothing and effects said to be lost or damaged through one of their Steam Launches sinking in the Soochow Creek.

We understand a warrant has been issued for the arrest of the proprietor and others by the French Mixed Court Magistrate, this we consider not only most irregular, but unjust. Our friends are quite willing to defend any civil action brought against them in the Mixed Court in this Settlement in which place they have resided for many years, and as we have a lien on their Steam Launches, we decidedly object to the case being tried in the French Mixed Court, where our interests might be materially affected adversely.

Will you therefore kindly take the necessary step to have the case tried in this Settlement, and much oblige,

Yours faithfully,
S. C. FARNHAM, BOYD & Co., Ld.
JAMES JOHNSTON,
Director.

THE SECRETARY,
Municipal Council, Shanghai.

Note.—On the 18th instant, the Manager of the Tai Sun Chong Company attended at the Municipal Offices and handed in a statement, written in Chinese, in which he and the other men named in the warrant strongly protested against their case being tried beyond the limit of the Settlement and claimed as tax-payers the protection of the Municipal Council.

Council Room,
Shanghai, 29th April, 1902.

SIR,—I have the honour to inform you that a special meeting of the Council has been held this afternoon to consider the question of giving effect to the warrant issued by the French Mixed Court and endorsed by the French Acting Consul-General and yourself for the arrest of four native residents in this Settlement, in the Tai Sun Chong case. After full and careful consideration of the case and all the facts and issues involved therein, the Council, by a unanimous vote, decided that it is inadvisable in the public interest that this warrant should be executed, pending further reference of the matter and consideration thereof by the Consular Body.

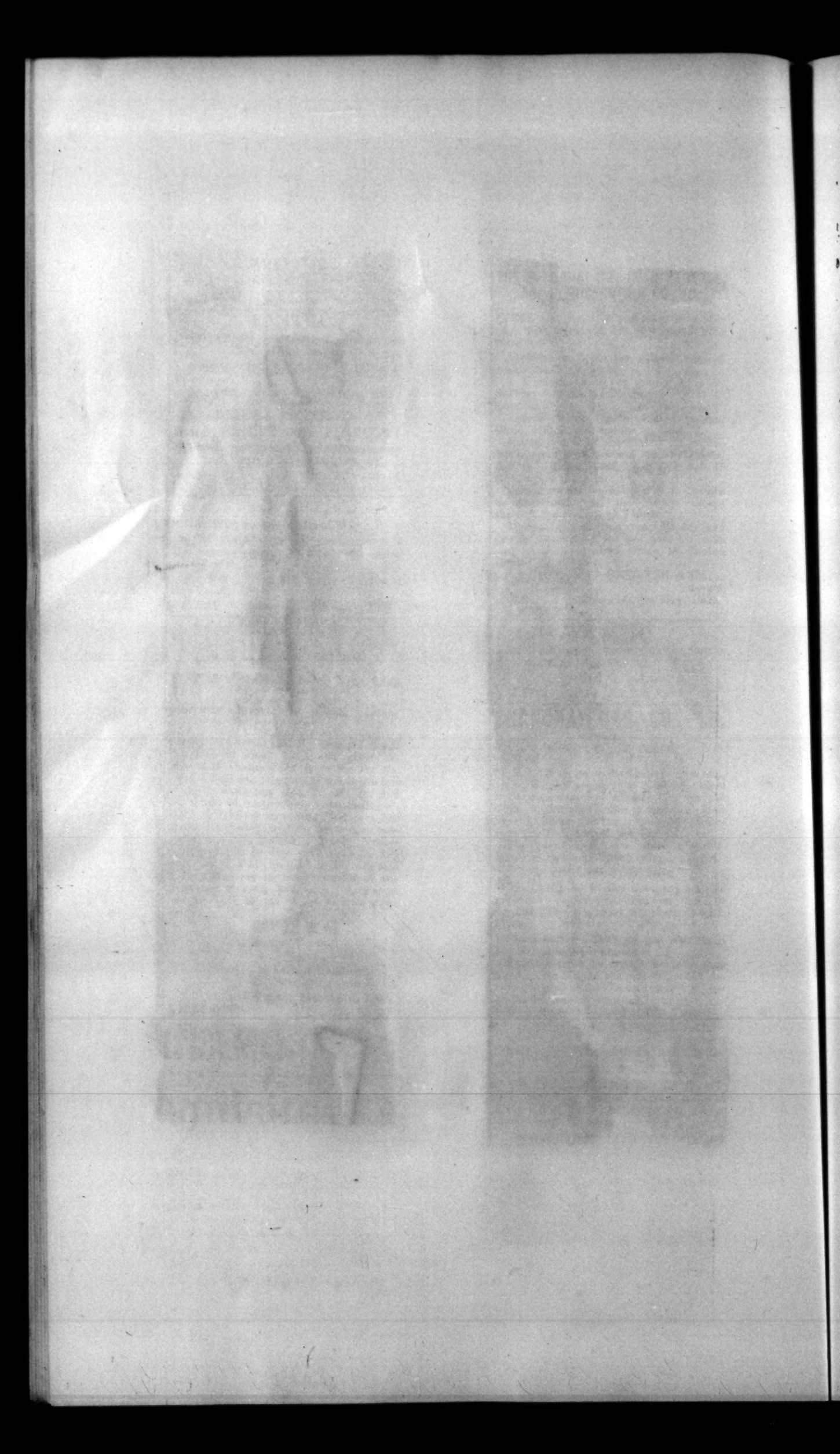
A further communication on this subject stating the Council's views and submitting all the facts for the information of the Consular Body, will be forwarded to you as soon as possible.

I have the honour to be,
Sir,
Your obedient servant,
WM. GEO. BAYNE,
Chairman.

J. GOODNOW, Esq.,
U. S. Consul-General
and Senior Consul.

Council Room,
Shanghai, 1st May, 1902.

SIR,—In continuation of my letter of the 29th ultimo and in reference to the case of the warrant issued by the French Mixed Court for the summary arrest of four natives, resident in this Settlement and connected with the "Tai Sun Chong" Steam Launch Co., I have the honour to submit the following statement of the facts of the case for the information and consideration of the Consular Body, and to request that, in the public interest, a decision may be arrived at in this matter, as well as in regard to the case referred to in my letter of the 17th ultimo, at the first opportunity convenient to your colleagues and yourself. The Council ventures to hope that, in view of the extreme importance of the issues arising out of the action of the French Authorities, and the obvious disadvantages resultant from irregularity or uncertainty of procedure, the Consular Body will consider these questions at an early date.



The facts of the case as recorded in the Council's Minutes and Police Reports may be briefly stated as follows:—

On the 22nd of March a steam launch belonging to the Tai Sun Chong Co. (a firm resident in the Foreign Settlement) collided with a bridge in the Soochow Creek and foundered. No lives were lost. One of the passengers on this boat was a woman related to a former Magistrate of the Mixed Court of the French Settlement; some days after the accident a message was sent to the Tai Sun Chong Co. to the effect that this woman claimed damages (originally stated at Tls. 500 and subsequently raised to Tls. 3,000) for alleged loss of, and injury to, her personal effects; this claim the Company refused to pay, stating their readiness to contest it if civil proceedings were instituted before the Mixed Court of the Foreign Settlement.

On the 16th April, a warrant was issued by the French Mixed Court at the instance of the former Magistrate of that Court, for the arrest of the proprietor, the manager, the bookkeeper and the shroff of the Steam Launch Company. This warrant was stamped at the French Consulate and in accordance with the usual practice, endorsed by the Senior Consul for execution by the Municipal Police.

The case having been reported to the Council by the Captain-Superintendent of Police—who considered the issue of a warrant unjustifiable under the circumstances, since a summons at the Mixed Court of the Foreign Settlement was evidently the proper method of procedure—the Council, at a meeting held that day, instructed the Secretary to call on the Senior Consul and, informing him of the facts, to request that the warrant be cancelled. This was done; the Senior Consul cancelling his endorsement on the warrant, which was thereafter handed to the Police for return to the French Mixed Court.

On the 26th April, the Senior Consul requested the Chairman of the Council, accompanied by the Secretary, to attend at his office for further discussion of this matter. He stated that upon closer enquiry he had ascertained that the procedure adopted in this case was in conformity with established practice and that the records of the Senior Consulate contained numerous precedents for extradition to the French side of native residents defendants in civil suits. While admitting that the action of the authorities of the French Settlement was open to grave objection, both in this matter and in the earlier case referred to the Consular Body in the Council's letter of the 17th ultimo, he was of opinion that, until the questions at issue had been discussed by the Consular Body and a definite understanding arrived at, locally or in Peking, it would be advisable not to raise any questions as to the administrative rights involved. In this view the Chairman of the Council concurred; as regards the question of precedent, however, he pointed out that, without further information as to the cases referred to, reasonable doubt might exist as to their being applicable in the present instance; a wide distinction must also necessarily be drawn between action taken by the Police Officers of the Settlements, mutually cooperating to advance and expedite the ends of justice, and action taken, apparently in violation of justice and claimed as a matter of right, by the French authorities. The Chairman undertook that the Police would be instructed to continue to execute all warrants for the French authorities without further question pending settlement of the whole matter by the representatives of the Powers, on the understanding that the Senior Consul would personally assure himself of the regularity of the documents and that the specific case of the Tai Sun Chong Co. should be submitted for early consideration and decision of the Consular Body.

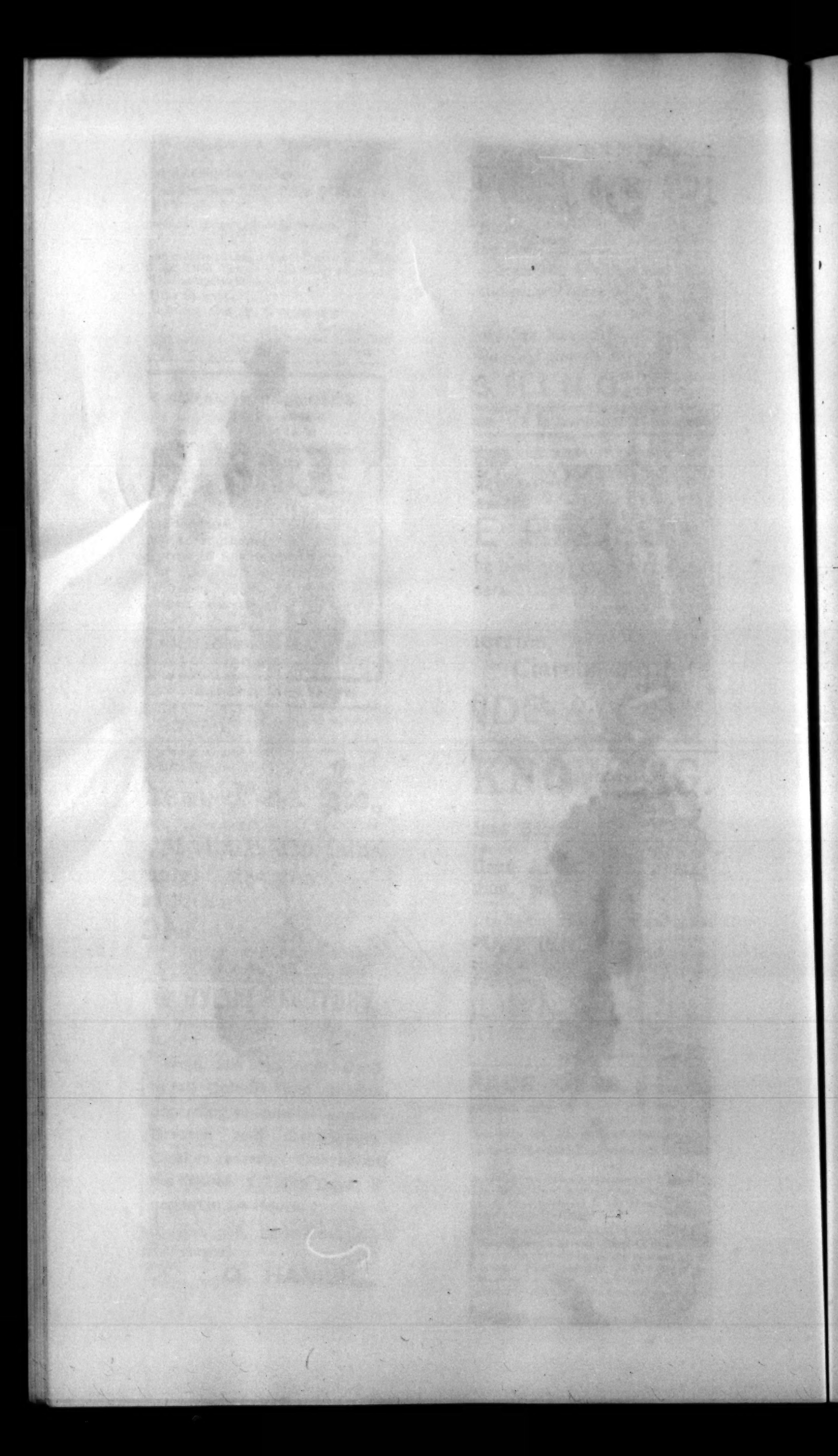
On the 29th April, the Senior Consul verbally informed the Chairman of the Council that at the request of the French Consulate he had endorsed a new warrant for the arrest of the four natives connected with the Tai Sun Chong Co. and he requested its immediate execution.

Regarding the question as one of grave importance, the Chairman convened a special meeting of the Council at which, after careful consideration, the resolution recorded in my letter of the same date was unanimously adopted.

The reasons which induced this decision are as follows:—

1.—It was clearly understood by the Council, as the result of the interview at the Senior Consulate on the 26th April, that no further action would be taken in the "Tai Sun Chong" case until the matter had been submitted for consideration and decision by the Consular Body. Even if it were admissible that this understanding was based upon a misapprehension of the statements made upon that occasion, the Council holds the opinion that the decision of such a case, involving not only rights over the persons and property of residents in the Settlement, but far-reaching principals of jurisdiction and justice, cannot rest solely with the Senior Consul acting upon his individual authority, but must necessarily be referred to the Consular Body as a whole.

2.—It has been fully admitted as a fundamental principle of the local Government of the Foreign Settlement, supported by the Consular Body and recognised by the Chinese Authorities, that no Chinese residents may be arrested or removed from the Settlement for imprisonment, or trial, until the charges against them have formed the subject of proceedings at the International Mixed Court. This principle, of vital importance to the prosperity and well-being of the native community, has been recognised and consistently upheld by the Consular Body and the Council *vis-à-vis* the Chinese Authorities themselves, especially since the Peking *coup d'état* of 1898, and whatever cases of different procedure may be found in the records of the past, there can be no question either as to the existence or the advisability of this procedure thus established. The Council is unable to admit, and is convinced that the Consular Body will not admit, that a principle of this kind should be consistently upheld *vis-à-vis* the Chinese Authorities, and allowed to lapse in the case of a Chinese warrant bearing the seal of the French Consulate.



3.—In this particular case it has been brought to the knowledge of the Council—subsequently to the issue of the warrant—that a British firm (Messrs. Farnham, Boyd & Co.) is directly interested in the property and business of the defendants, and that this firm protests against the case being tried at the French Mixed Court. Furthermore, one of the defendants is Comprador to a German firm, whose representative has, it is understood, entered a similar protest at his Consulate. These facts, while in no way affecting the main principle on which the Council's action has been based, appear to justify the conclusion that sufficient enquiry had not been made into the case before counter-signature of the new warrant by the Senior-Consul

4.—If, as would appear to be the case, the non-execution of the warrant will entail measures of a retaliatory nature by the French Authorities, the Council would point that a *modus vivendi* can only be reached after consideration of the matter by the Consular Body. It is to be observed, however, that no violation of principle or surrender of rights on the part of the French Authorities would be involved if, pending settlement of the entire question, the case were tried at the Mixed Court of the Foreign Settlement where the French Consul-General is properly entitled to be represented if he thinks fit.

5.—In conclusion, I have the honour to state with reference to your opinion, verbally expressed, that the Council is not properly concerned in protecting the rights, persons and property of native residents, that my colleagues and myself are unable to share that view. The Council would be failing in a due sense of responsibility to the Ratepayers if it were admitted that the well-being and fair treatment of law-abiding native residents and tax-payers are no concern of the Municipality.

The question being essentially one of public interest and importance, the Council proposes to publish this correspondence at an early date.

I have the honour to be,
Sir,
Your obedient servant,
WM. GEO. BAYNE,
Chairman.

Consular Service, U. S. A.,
Shanghai, 2nd May, 1902.

SIR.—Replying to your letter 02/233 of April 29th, in which you say "after full and careful consideration of the case and all the facts and issues involved therein, the Council, by unanimous vote, decided that it is inadvisable in the public interest that this warrant (a warrant issued by the French Mixed Court and endorsed by the French Acting Consul-General and by the Senior Consul) should be executed, pending further reference of the matter and consideration thereof by the Consular Body," and replying to your 02/238 of May 1st of the same tenor, I am directed by my Colleagues, by unanimous vote, to reply.

The Consular Body has fully considered the position of the Council. It is evident that the Council misunderstands its position with regard to judicial matters. It has been the practice that the Mixed Courts have sent their Yamên runners to execute warrants and summonses in connection with the Police as a matter of convenience and to check possible irregularities likely to arise from a double police system. The Council must keep in mind, however, that it has no judicial functions; and that the jurisdiction of any Court over any person can only be decided by the proper authorities of that person's Nationality. The Consular Body cannot recognize the right of Municipal Council to discuss or dispute the expediency of executing a warrant duly countersigned by the Senior Consul, thereby assuming a judicial function which according to the Treaties is entirely and solely in the hands of the duly appointed representatives of the National Governments.

The Consular Body must insist that the warrant in question in your letter 02/233, as well as all other warrants countersigned by the Senior Consul, shall be served and executed without delay.

I am, Sir,
Your obedient servant,
JOHN GOODNOW,
Senior Consul.

W. G. BAYNE, Esq.,
Chairman,
Shanghai Municipal Council.

Council Room,
2nd May, 1902.

SIR.—I have the honour to acknowledge receipt of your letter of this date in reply to mine of yesterday on the subject of the warrant issued by the French Mixed Court for the arrest of four natives connected with the Tai Sun Chong Steam Launch Co.

The Council, as already stated, delayed execution of the warrant in question not, as you suggest, in the assumption of judicial functions but simply in adherence to the understanding made with yourself that no steps would be taken in the matter pending its further consideration by the Consular Body. That Body having now considered the case and having come to the conclusion that this warrant should be executed, the Council, with a view solely to removing all possible cause of friction pending a clear understanding upon the general principles involved, will—under protest—instruct the Municipal Police to give effect to the warrant.

To avoid future misapprehension on this subject, however, I have the honour in the name of the Council to state respectfully, but at the same time distinctly, that the Council is unable to comply with the demand contained in the concluding paragraph of your letter under reply, or to accept the general conclusions conveyed in that communication. It is the opinion of my Colleagues and myself—an opinion which we are convinced will be endorsed by this self-governing interna-



tional community—that to admit the opinions you have therein expressed would be a stultification of every tradition and privilege of the Municipal Government of Shanghai.

The Council cannot but consider it a matter for regret that the Consular Body should, by endorsing the opinions to which I refer, ignore the entire history of the Foreign Settlement and countenance action which the Ratepayers cannot fail to regard as a direct infringement of the just rights and liberties of residents within Municipal limits. It has been the established right, practice and tradition of the Municipality, since the foundation of the Settlement, to exercise supervision over warrants issued at the initiative of Chinese officials for the arrest or punishment of native residents; without such supervision it must be obvious that the entire fabric of local government, the security and well-being of the native community must fall to the ground, and it is equally apparent that no Consular Officer has at his disposal either the means or the opportunity to check those irregularities to which the native courts and runners are notoriously addicted, irregularities of which the present case affords a striking example.

In the name of the Council I have further to take exception to your statement that the execution of warrants and summonses by the Municipal Police is simply a matter of convenience. The practice is one of established right, and in this connection I have the honour to draw your attention to the conditions, rights and objects of Municipal authority in the Settlement as laid down and defined by Sir R. Alcock when introducing the present Land Regulations to the Ratepayers in July 1854. Those rights have been maintained by the Council's predecessors in the past, by them the prosperity and security of the Settlement has been established, and until instructed by the Ratepayers to surrender them, my Colleagues and myself must continue to uphold the privileges of this self-governing community.

Neither the Consular Body, the Council, nor the Foreign Community has ever been ready or willing to admit, as regards native residents within Municipal limits that "the jurisdiction of any court over any person can only be decided by the proper authorities of that person's nationality." Such an admission would place the administration of this Settlement in Chinese hands and in refutation thereof I can only refer you to the statement contained in my letter of yesterday with regard to the recognised procedure and practice which prevent the removal of any Chinese residents beyond the limits of the Settlement without a preliminary trial at the Mixed Court. That practice has been established entirely as the result of initiative by the Municipal Council, with the co-operation of the Consular Body, but the opinions which you express in your letter under reply would, if accepted, involve sacrifice of this principle and stultification of all the results achieved in the past on behalf of the Community here resident.

Finally, the Council is unable to follow the reasoning which ascribes to the representatives of the national Governments in China jurisdicial functions in relation to Chinese residents in the Foreign Settlement. The practice, in accordance wherewith the Senior Consul stamps warrants for the arrest of Chinese subjects resident within Settlement limits is not based, so far as the Council is aware, on any Treaty provision, but is the outcome of local arrangements and of a system of administration which has grown out of the exigencies of Shanghai's peculiar position and the form of its local government.

In conclusion I have the honour to inform you that the Council proposes that this question shall form the subject of discussion by the Ratepayers to be convened in special meeting at an early date, in the meanwhile this correspondence will be published in its entirety and without delay.

I have the honour to be,
Sir,
Your obedient servant,
W. G. BAYNE,
Chairman.

J. GOODNOW, Esq.,
U. S. Consul-General
and Senior Consul.

MUNICIPAL COUNCIL.

The following further correspondence having reference to the subject of the impending Special Meeting of Ratepayers is forwarded for publication :—

Council Room,
Shanghai, 8th May, 1902.

SIR,—In continuation of my letter of the 2nd instant, and in further reply to yours of that date, I have the honour to forward for the information of the Consular Body the following series of documents, taken from the Municipal records, which appear to prove conclusively, that the opinions and general claims set forth in your letter of the 2nd instant, are contrary to established procedure and precedent and to the opinions expressed by the Consular Body in the past on this subject:

Enclosure. I.—Precedents of specific cases occuring as far back as the year 1866 and as recently as 1900, in which the Council, acting in the public interest, has suspended or refused execution of warrants for the arrest of native residents, on the ground of irregularities or mal-practices existing in the cases for which those warrants were issued. Particular attention is drawn to the case of Yang Tsze Ching wherein the conditions are precisely similar to those of the "Tai Sun Chong" case. I would observe that in this specific case and as the result of the Council's representations, the warrant was not executed, nor did the Consular Body consider that in refusing such execution the Council was assuming "judicial functions."

Enclosure. II.—Letter from the Senior Consul of 5th December, 1898, containing the views of the Consular Body of that date in regard to the meaning, intention, and value of the Senior Consul's countersignature on Chinese warrants. From this document you will observe that the Consular Body and your predecessor in the office of Senior Consul have declared their opinion that the seal of the Senior Consul, affixed to Chinese warrants, is practically a visé; that the Senior Consul is bound to affix it in every case and that it is simply an intimation to the Municipal Police that the document emanates from the proper Chinese authority.

Enclosure III. — Correspondence of October 1900 which, taken together with Enclosure II, amounts to a clear and specific admission by the Consular Body, not only of the principle that no native resident can be taken beyond Settlement limits without preliminary trial at the Mixed Court of this Settlement, but that it is the duty of the Council to prevent any departure from this procedure.

Whatever the merits of the "Tai Sun Chong" case, which has been practically settled by the execution of the warrant, leaving the further treatment of the defendants in the hands of the Authorities and others properly interested in the matter, the Council cannot but regret that these precedents, duly recorded in the Senior Consulate archives, should not have received the attention of the Consular Body in a matter of such urgent and general importance.

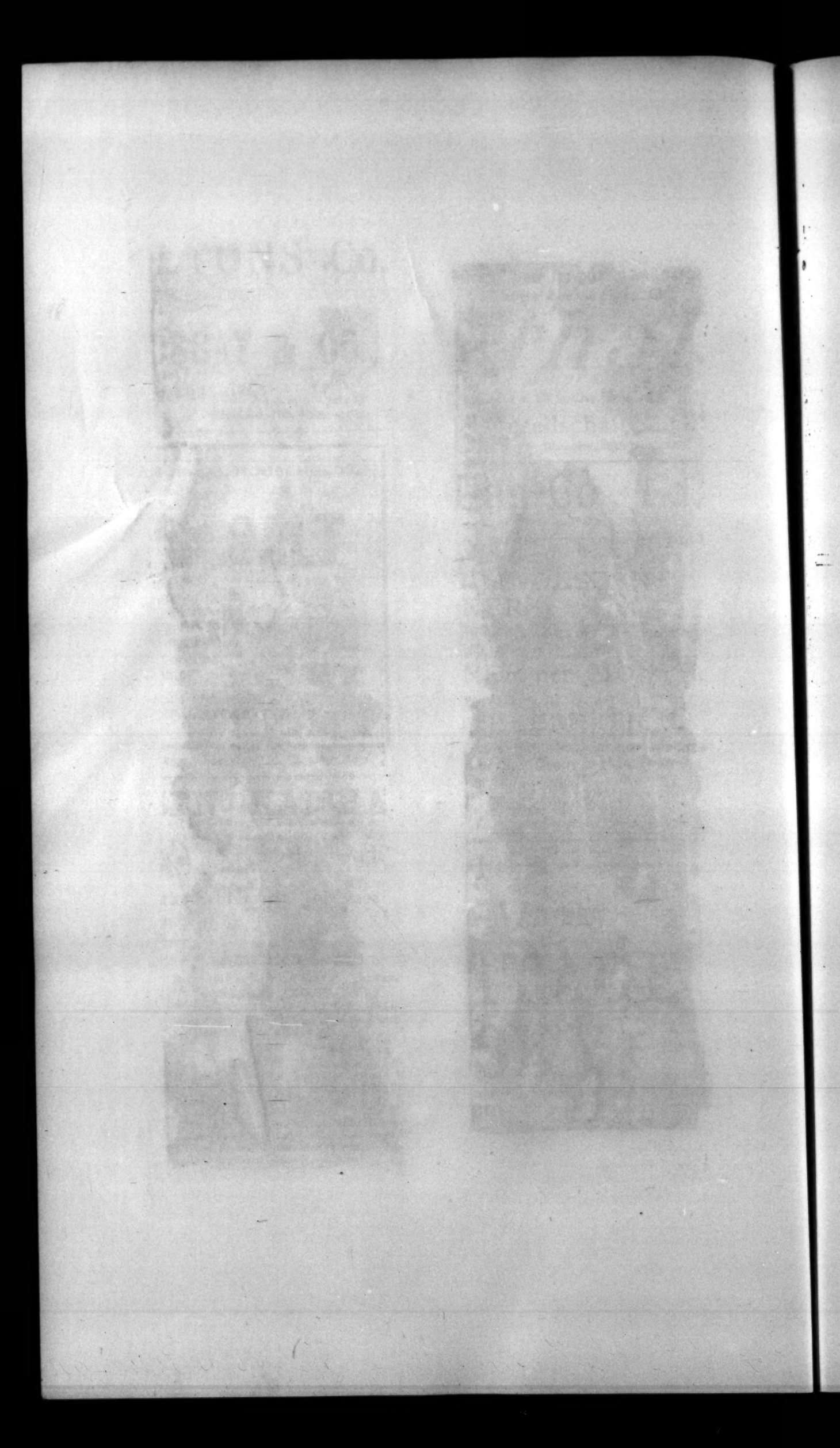
I have the honour to be,
Sir,
Your obdedient servant,
WM. GEO. BAYNE,
Chairman.

J. GOODNOW, Esq.,
United States Consul-General
and Senior Consul.

ENCLOSURE I. *(a.)*

Extract from the Annual Report of the Municipal Council, 1866. Memo by the Council's Interpreter on the effect produced by the irregular execution of Warrants.—It has been found that Warrants, when countersigned, but the execution of which has been refused by the Council, are sometimes made instruments of fear, and thus effect the end wished for by the accusers. For instance, two months ago a warrant was issued against five persons in Shantung Road. It was countersigned, but the Municipal Council refused to execute it, on the ground that it was intended for extortion. Accordingly, the Constables never came to the Police Station again, but, with the Tepaou, went directly to these houses, and frightened their proprietors with these countersigned documents, seeking probably thereby to accomplish what they failed to do through other means.

It is clear to all, that to protect the residents, no Magistrate's Warrant should be countersigned until the real cause of complaint be ascertained; otherwise, do what the Council will, there will always be a state of insecurity.



ENCLOSURE I. (b.)

Chairman of Council to Senior Consul.

27th October, 1898.

SIR,—The Captain Superintendent of Police has reported that he received on the 25th instant for execution in the usual way, a warrant for the arrest of one Yang Tsze Ching, a large owner of property in the Settlement; this warrant was signed by the Magistrate and endorsed by yourself.

Certain information in regard to this case has been brought to the Council's notice and it would appear that the defendant, accused on no criminal charge, is the victim of a conspiracy for purposes of extortion. Without, however, going into the merits of the case itself the Council would submit that, in the absence of any criminal charge against him, Yang Tsze Ching should have been proceeded against by summons in the first instance rather than by a warrant for arrest, and I have the honour on behalf of the Council to ask whether any special reason exists which rendered the issue of a warrant necessary in this case, which is admittedly a civil one.

The Council would further point out that upon the adequate protection of residents and their property in the Settlement rests one of the most essential conditions necessary to the continued welfare of this community as a whole. The existing political situation has produced a certain element of disturbance and unrest which affects all classes of society; it therefore appears to the Council particularly desirable that at the present moment every care should be exercised in safeguarding the legitimate interests of native residents generally and that the local machinery of government should under no circumstances be placed at the disposal of the native authorities without a clear understanding as to the ends which they may be seeking to attain. Especially does it seem necessary that in purely civil cases the greatest possible measure of legitimate protection should be accorded, and that such cases should invariably be heard at the Mixed Court in the first instance if a commitment to the City Magistrate is desired.

In the present instance, and in view of the doubtful circumstances of the case, execution of the warrant for the arrest of Yang Tsze Ching is delayed pending a further communication from yourself in the matter.

I have, etc., etc.,

(Signed) JOSEPH WELCH,
Chairman.

ENCLOSURE I (c.)

Chairman of Council to Senior Consul.

November 21st, 1898.

SIR,—I have the honour to inform you that your views in regard to the issue of Chinese warrants, as expressed to myself in a recent conversation, have been carefully considered by the Council, and that your suggestions on the subject are endorsed by my colleagues and myself. The Council recognises the difficulty experienced by the Senior Consulate in ascertaining the particular nature of cases wherein native warrants are issued; with a view therefore to minimising the abuses which, at times, might result from such documents improperly or inadvisedly issued by the Mixed Court, the Council acting under your advice, will instruct the Captain Superintendent of Police that whenever he has good grounds for considering a warrant to have been issued as the result of misapprehension or malpractice on the part of the native officials, its execution is to be delayed pending reference and explanation of the facts by the Council to yourself. It is not expected that such cases will be of very frequent occurrence in the future but the knowledge that procedure of verification exists should undoubtedly serve as a deterrent.

I have, etc., etc.,

(Signed) JOSEPH WELCH,
Chairman.

ENCLOSURE II. *(a.)*

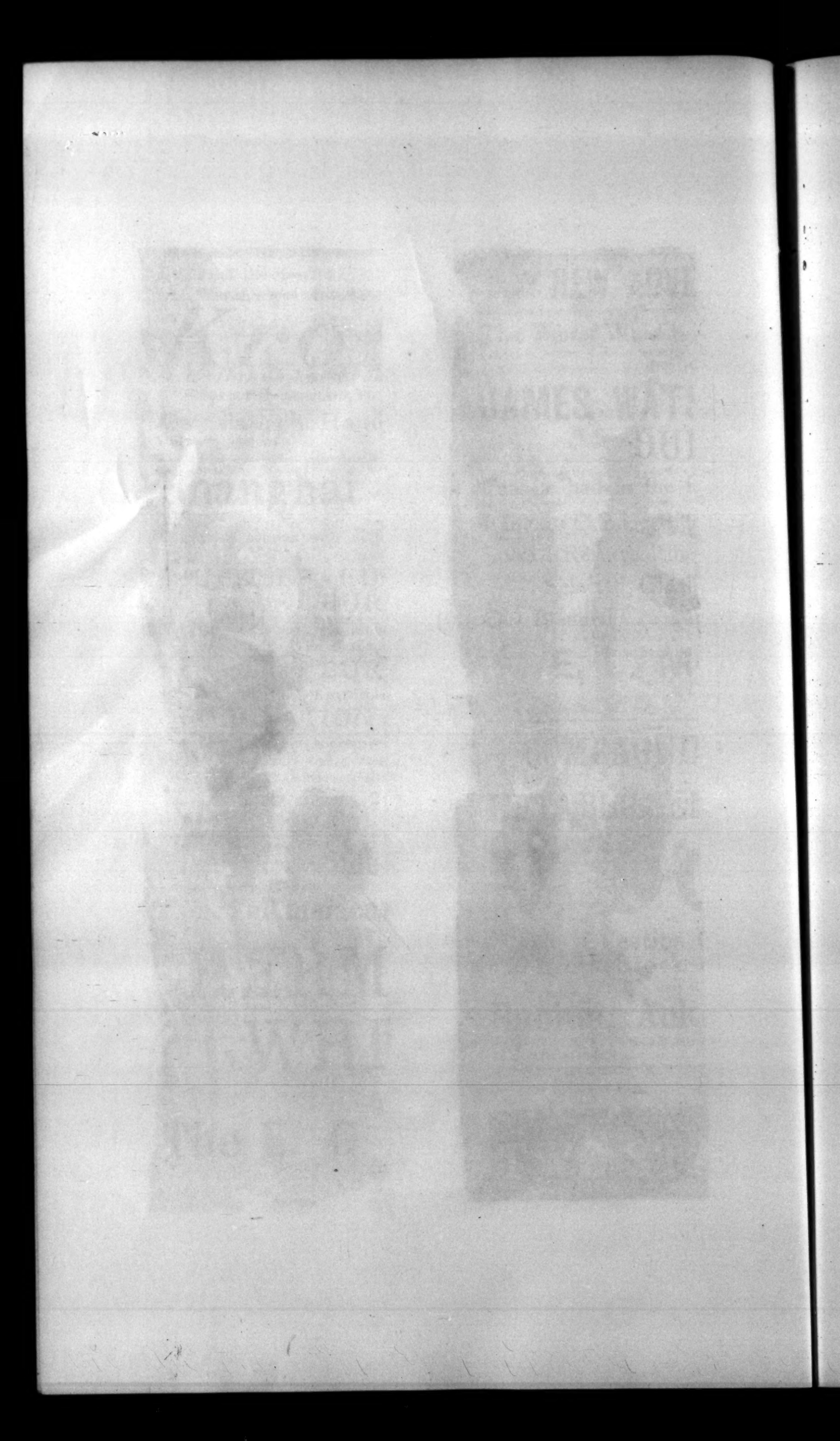
Senior Consul to Chairman of Council.

Shanghai, 5th December, 1898.

SIR,—I have the honour to acknowledge receipt of two letters from Mr. Welch, dated 27th October and 24th November last, upon the decision taken by the Council to suspend the execution of a warrant of arrest issued by the Mixed Court Magistrate against a certain Yang Tze Chin, Chinese resident in the Settlement.

I submitted the same to my Colleagues who directed me to reply as follows:

There being no law or article of treaty authorizing the Consuls to suspend the execution of warrants issued by the Mixed Court Magistrate against Chinese residents and as, according to International law, the competency of judicial Authorities and form of procedure are regulated by the laws of such Authorities' country, the opinion of the Consular Body on the legal points raised in the two letters of the Council is that the Senior Consul never can refuse to affix his seal on warrants issued by the Mixed Court Magistrate, when duly presented to him. That, because the seal is a mere indication to the Municipal Police that the warrant has been issued by the proper Authority.



The Consular Body are also of opinion that they have no power to prevent the Mixed Court Magistrate to perform commission from other judges for the appearance before their Courts of Chinese residing in the Settlement, either as parties or witnesses in a suit out of the Mixed Court Magistrate's competency, and even if in a civil case the appearance is demanded by a warrant of arrest, because, in China, the appearance of parties and witnesses before a judge is compulsory and a warrant of arrest is nearly the only mean used to obtain it; it may also be feared that those judges would then also refuse to perform similar commissions from the Mixed Court Magistrate.

However, the Consular Body think that, without altering existing Mixed Court rules, the protection of Chinese residents and foreign interests will be sufficiently secured, if in a case of arrest for the purpose of taking the prisoner outside of the Settlement, the Municipal Police carefully see that he be first brought before the Mixed Court for a preliminary inquiry to ascertain who is the competent judge. If foreign interests are involved in the case, the competent Court will be the Mixed Court Magistrate sitting with a foreign Assessor; as it also may be in a case between two Chinese where the cause and action arose within the Settlement. This, the Police has to find out and then have the warrant endorsed by the Consul of the above said Assessor's nationality. Indeed: Art. 2nd of the rules must be applied if the foreign plaintiffs number only one, or two, three, one hundred or the whole community, and Art. 3rd can be applied for all residents in the Settlement because they are all citizens having as civic duty to serve the whole community.

Such are, Sir, the reasons that dictated the Consular Body's letter to the Magistrate of the Mixed Court, a copy of which I now have the honour to forward to you herewith inclosed, the measures enunciated in it being considered by my colleagues and myself as the only possible solution of this complicated question according to the means in our power.

I have, etc., etc.,

(Signed)
JOAQUIM MARIA TRAVASSOS VALDEZ,
Consul General for Portugal
and Senior Consul.

ENCLOSURE II. *(b.)*

Senior Consul to Mixed Court Magistrate.

2nd December, 1898.

SIR,—On 16th ultimo, I had the honour to receive your communication on a warrant of arrest against a certain "Yang Tze Ching," Chinese subject resident in the Foreign Settlement. I submitted your letter to my colleagues who directed me to state in reply:—

The jurisdiction of the Chinese Authorities over Chinese subjects residing in the Settlement has been determined by a convention with the Tsungli Yamên, dated 20th April, 1869, and containing ten rules.

In it, the Mixed Court Magistrate is recognized as the only Chinese Judge having power to perform acts of jurisdiction within the limits of the Foreign Settlement and this for the benefit of all residents of whatever nationality; it must be the desire of the Magistrate that the fulfilment of his duties corresponding with such object.

In order that the said rules never be violated, the Municipal Police has been commissioned to constantly watch for their absolutely observance; from their strict fulfilment depend the peace, good order and government of the Settlement. It is one of the principal duties of the Police—as for all other Polices—to place the persons it is required to take or detain in custody, before the competent Court composed, according to the character of the case, either of the Magistrate alone or the Magistrate and a foreign Assessor.

The Consular Body are inclined to admit that the Magistrate has to comply with the order issued by his Superiors for the arrest of Chinese subjects over whom they may be the competent judges; but, notwithstanding this competency, it remains always doubtful if, before complying with such demands the Magistrate, like other judges, has not first to hold in his Court a careful investigation into the facts for what, the said rules give him full power.

Neglecting such preliminary formality would be against the duty of any judge to seek for all possible light and means to satisfy his conscience and help the discovery of the truth.

(Here follows a statement of particulars necessary for valid warrants.)

Another principle that must always be respected in a case of warrant for arrest is that a preliminary enquiry be always held at the Mixed Court when the security, good order and the government of the Settlement require it.

The Police has received instructions in that sense not to give his assistance if that condition is not fulfilled.

The Consular Body hope that the Magistrate, convinced of the magnitude of his civilizing mission and of the obligation imposed on him to do every thing that may promote the welfare of the residents, will not raise any objections against such necessary practices and will endeavour to have it followed.

I have, etc.

(Signed.)
JOAQUIM MARIA TRAVASSOS VALDEZ,
Consul General for Portugal
and Senior Consul.

ENCLOSURE III. *(a.)*
Senior Consul to Council,
October 3rd, 1900.

SIR,—I have the honor to forward to you confidentially, in obedience to a resolution passed by the Consular Body in their last meeting, copy of a letter received from H.E. the Taotai, anent the presence in these Settlements of some influential members of the secret society styled the Ko-lao-hui, and the subversive nature of their work and propaganda.

It is understood that the police shall only bring the accused before the Mixed Court, sitting with a foreign Assessor to be judged, when the most indisputable proof of his guilt has been established.

I have etc., etc.,

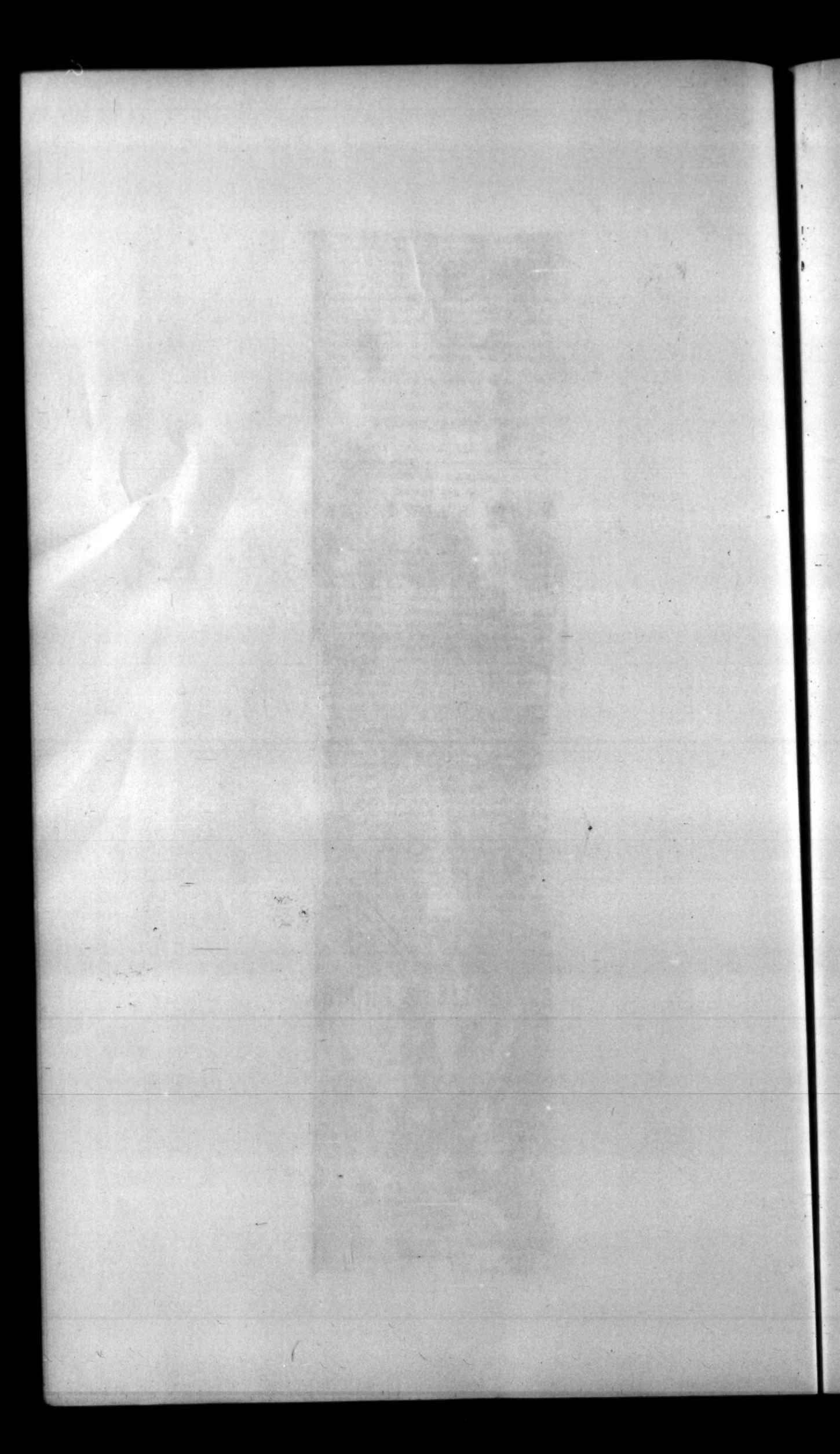
(Signed)
JOAQUIM MARIA TRAVASSOS VALDEZ,
Consul General for Portugal
and Senior Consul.

ENCLOSURE III. *(b.)*
Chairman to Senior Consul,
5th October, 1900.

SIR,—I have the honour to acknowledge the receipt of your letter of the 3rd instant, containing the translation of a despatch from the Taotai dated the 19th ultimo, on the subject of the arrest of members of certain secret societies now in Shanghai.

The latter paragraph of your letter does not appear to call for any modification of the procedure at present in vogue in regard to the arrest and prosecution of Chinese within the limits of the Settlement, and I have therefore merely to say that the Police execute such warrants only as bear Consular endorsement and that in all cases persons so apprehended are brought before the Mixed Court, sitting with a foreign Assessor.

I have, etc., etc.,
(Signed) E. A. HEWETT,
Chairman.



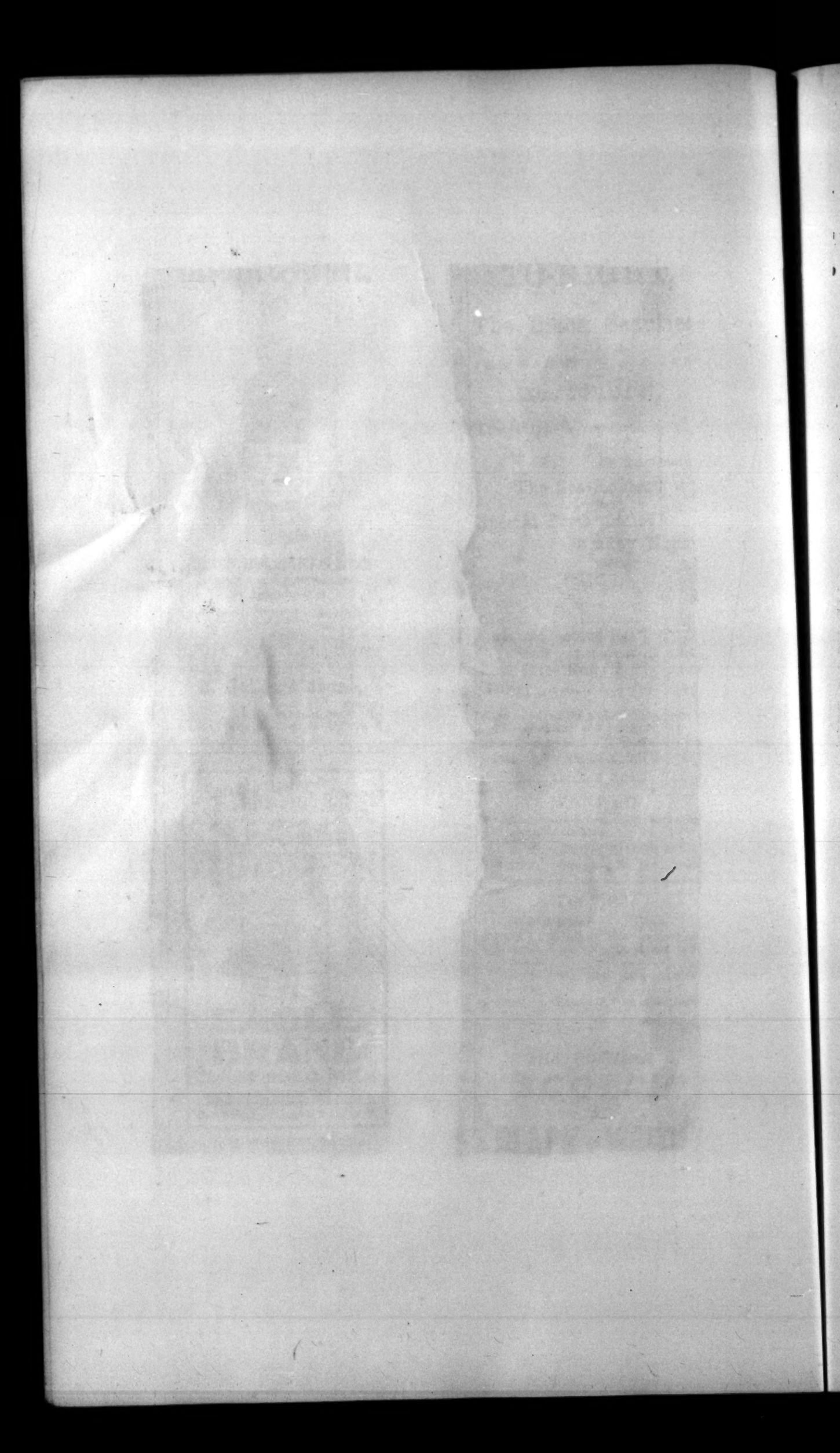
THE RATEPAYERS' MEETING.

The Special Meeting of Ratepayers, convened under Article XV of the Land Regulations for the Foreign Settlement, was held at the Town Hall yesterday evening. The following is a statement of the Ratepayers present and the number of votes held by each:—

Ach...son, G. 1
Algar, A. E. 4
Allen, R. B. 3
And...son, A. L. . 1
Anderson, W. H. 1
Antia, N. K. ... 2
Anton, C. E. 1
Arbuthnot, E. O. 2
Ball, F. P. 2
Barff, F. W. 1
Batty, E. J. 1
Bavier, E. de 2
Barry, G. R. 1
Bayne, W. G. ... 3
Beauchamp, R. H. 1
Beart, M. 1
Beck, J. M. 1
Bell, E. 1
Bernhein, M..... 1
Bevis, H. M..... 3
Birchal, E. F. ... 1
Blake, F. A. 1
Blanc, Dr. E. H. 1
Bojesen, C. C. ... 1
Bondfield, Rev. G. H. 1
Bornemann, F.... 1
Bowness, S. 1
Bowman, A. R.... 1
Brenner, A. S. .. 1
Broderson, C. ... 2
Buchanan, Colin. 1
Buchanan, J. 18
Bunt, T. 1
Burge, Dr. F. J. 1
Burkill, A. W. ... 9
Buse, J. 1
Butler, C. H. ... 1
Buyers, W. B. ... 1
Camera, L. 1
Campbell, D. ... 1
Campbell, R. M.... 3
Carlill, A. J. H.. 4
Carmichael, W. V. 1
Carter, W. J. B... 1
Chambers, J..... 1
Chaumont, M. ... 1
Clarke, B. A..... 1
Clarke, W. J. ... 1
Clements, E. W. 2
Cheetham, W. B. 1
Clifford, W. W.... 1
Cline, Rev. J. W. 1
Coutts, G. D. 1
Costa, R. G. D... 1
Cox, W. W. 1
Crane, C. 1
Crawford, D. W... 2
Kinch, F. 1
Kinnear, H. R.... 2
Kirchhuff, F. H... 1
Kirchner, A. 1
Knudsen, P. L... 1
Koehn, A. 1
Kohlar, C. B. ... 1
Lalcaca, B. P. ... 1
Landale, D. 1
Lanning, A. E. ... 1
Latter, A. M. ... 1
Lavers, F. F. ... 1
Leake, A. R. 1
Lester, Henry ...13
Levy, S. A..... 2
Leefe, J. N. 1
Lindholm, K. H. von 1
Little, W. D. ... 3
Lowe, A. D 2
Luz, José L. de... 1
Lyman, V. G. ... 1
Macgregor, Robt. 1
Macgregor, R. ... 1
Macleod, Dr. N... 2
Maitland, H..... 7
March, M. 1
Marshall, A. M.... 1
Massey, P. W. ... 1
Matthews, G. A... 2
McAdams, W. H. 1
McCann, H. E.... 1
McCann, A. J. ... 1
McNeil, Duncan 1
Meuser, O..... 3
Michie, A., Jr. ... 1
Midwood, L. 1
Mordhorst, O. ... 5
Möller, N. E..... 1
Morgan, J..... 1
Morris, J. 2
Merrilees, A. G. 1
Moore, L. 3
Mosberg, Dr. C. . 1
Moses, A. E. 1
Nelson, E. 1
Oberg, G. L. 2
O'Dowd, J. H. ... 1
Osborne, John H. 7
Osborne, James H. 2
O'Shea, Henry ... 2
Paulsen, W. C.... 1
Parker, Rev. Dr. A. P. 2
Parrott, Dr. A. G. 1
Pemberton, T. ... 1
Pereira, H. A. ... 2
Poiguand, W. ... 1
Pollak, J. 1
Cubitt, L. J. 1
Cumming, F. A. 3
Darwent, Rev. C. E..... 1
Dawson, C. P. ... 1
Davies, C. Gilbert 4
Dipple, R. P. ... 1
Donnelly, A. R.... 1
Drummond, W. V. 2
Duff, J. S. 1
Dudgeon, C. J.... 6
Ellis, F. 2
Emamoodeen, S... 1
Evans, A. M. A... 4
Evans, E. 1
Evans, W. T..... 1
Ezra, E. I. 3
Farnham, Rev. Dr. J. M. W.... 2
Fearon, J. S. ... 3
Fitzgibbon, J. B. 1
Fleming, W. N.... 1
Frost, A..... 1
Fernandes, Count de Senna 1
Fobes, A. S. 1
Francqui, E. L.. 1
Gardner, H. G.... 1
Gensburger, H.... 2
Gessner, W. 1
Gilmour, D. 1
Glass, Duncan ... 2
Gore-Booth, E. H. 1
Graham, J. 1
Grant, J. C. 5
Gray, Harry De... 1
Greaves, Rt. Rev. F. R. 3
Grodtmann, J. ... 1
Groundwater, S. 1
Grün, H. 1
Guedes, J. M. ... 1
Hanson, J. C. ...25
Hamilton, J. T. . 2
Hardoon, S. A. ... 8
Hartley, J..... 1
Harvie, J. Alex... 2
Hay, Drummond. 3
Heffer, F. C. ... 2
Hogg, E. J..... 8
Hodges, Rev. H. C..... 2
Hoppeler, G..... 1
Hudson, E. P. ... 2
Hunnex, W. J.... 1
Hunt, J..... 1
Iburg, C. L. H. .. 1
Inglis, R. 25
Inglis, W. F..... 1
Ivy Dr. R. S. ... 2
Jackson, J. A. ... 1
Jameson, J. N. ... 1
Jamieson, Geo., C.M.G. 1
Jamieson, J. W.. 1
John, J. W. H. .. 1
Johnston, J 1
Judah, J. E., Jr. .14
Keeling, F. G. ... 2
Kerr, Crawford D. 1
Kerr, Leonard ... 1
Pott, Rev. F. L. Hawks..... 1
Probst, E. A.....29
Purcell, G. H. ... 1
Quelch, H. 3
Rayner, C..... 1
Rehm, Th..... 1
Reid, Dr. Duncan J. 1
Roberts, Capt. J. P..... 1
Rolker, J. H..... 2
Ross, A. B. 1
Ross, C. H. 1
Rowe, S. B. 1
Rudolph, C. 1
Ryde, C. H. 1
Samson, A. 1
Schmidt, H. W. D. 2
Scott, J. L. 3
Scott, Walter.....13
Sethna, N. D. ... 3
Sennet, M. 1
Shaw, C. R. 1
Shaw, R. W. 1
Shekury, G. I. ... 2
Shorrock, S. H.... 1
Skottowe, E. B.... 1
Swedley, J. 1
Somekh, S. S. ... 1
Sopher, M. A. ... 2
Southey, T. S. ... 1
Soyka, L. 1
Soyka, O. 1
Stampff, J. 1
Stern, J..... 3
Stevenson, Rev. J. W. 1
Stokes, A. P.... 4
Such, H. J. 2
Suffert, T. 1
Sullivan, J. A. ... 1
Swarthout, W. N. 1
Symons, Rev. C. J. F. 1
Taylor, F. E..... 1
Taylor, W. 1
Teesdale, J. H. ... 1
Timm, J. 1
Trueman, T. E.... 2
Twentyman, J. R. 4
Viccajee, F. 1
Wade, R. H. R. 1
Walshe, Rev. W. G. 1
Ware, Rev. J. ... 1
Wattie, J. A..... 2
Watt, R. D. 1
Wedemeyer, C.... 1
Wheen, Ed. 1
White-Cooper, A. S. P..... 1
Whittle, Capt. J.. 1
Wilcockson, H. . 1
Wilson, Alfred ... 2
Wilson, A. S..... 1
Wilson, E. G. ... 1
Wood, A. P. ... 2
Wortmann, R. ... 2
Wright, A..... 2
Young, J. M..... 1

Total 513 votes.

Ratepayers present 244.



Mr. W. G. BAYNE (Chairman of the Municipal Council.)—There being a quorum present to form this meeting, convened under Article XIV of the Land Regulations, we are in a position to commence the proceedings. The Senior Consul, if he is present, shall take the chair, and in his absence the next Senior Consul. If any Consul is present and desires to take the chair I will ask him to come forward. In the absence of a Consul-General, it is necessary to propose a ratepayer for the chair. I have great pleasure therefore in proposing Mr. J. L. Scott.

Mr. H. R. KINNEAR—I have much pleasure in seconding that.

The proposition was put to the meeting, and was declared carried by Mr. W. G. Bayne.

Mr. W. G. BAYNE—The next business is the election of a secretary. I propose Mr. E. L. Allen.

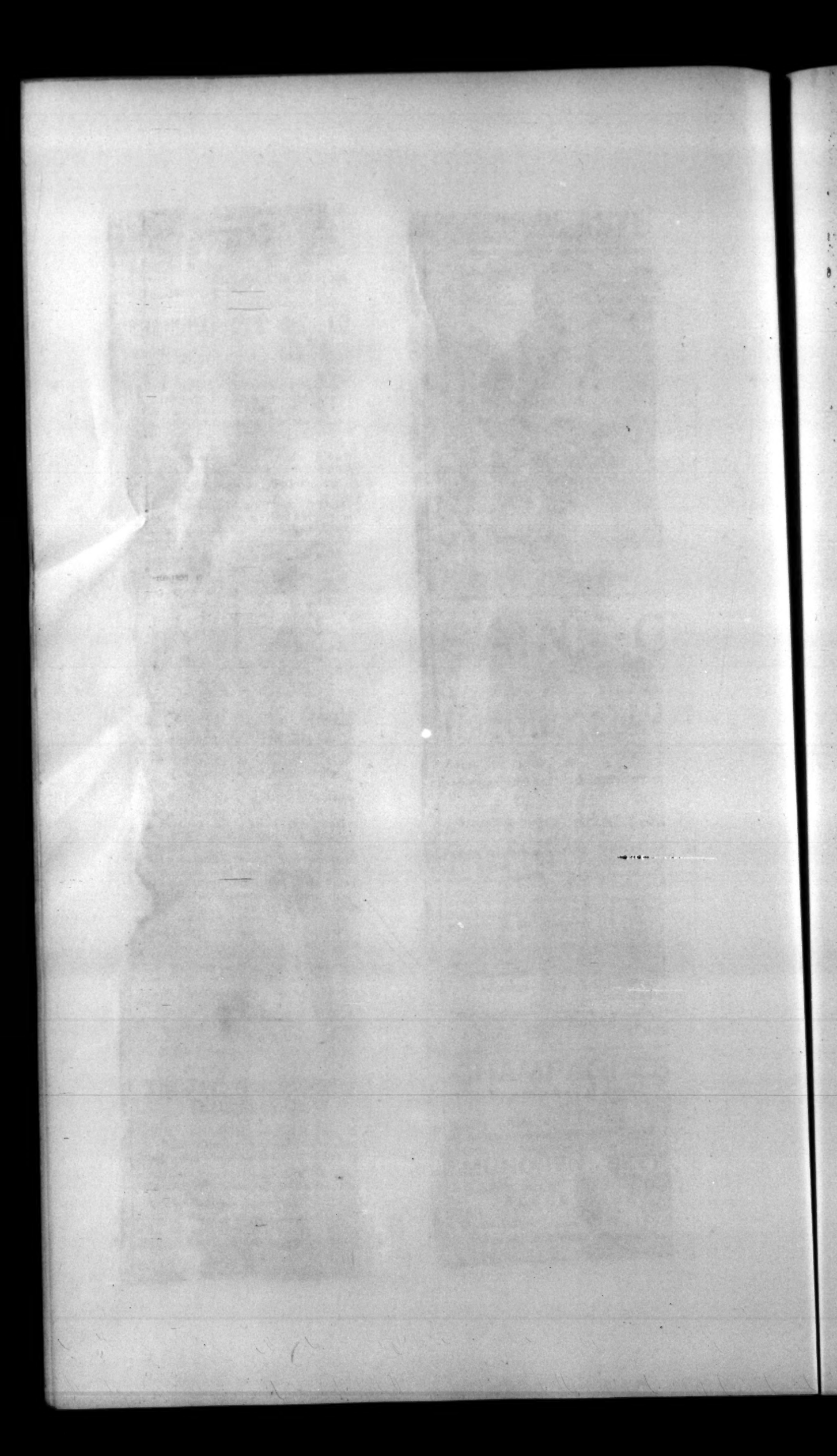
Mr. H. R. KINNEAR—I second that proposition.

The proposition was carried.

The CHAIRMAN—It now becomes my duty to read the notice calling the meeting. As the requisite number of ratepayers are now present, we will proceed to the business of the meeting.

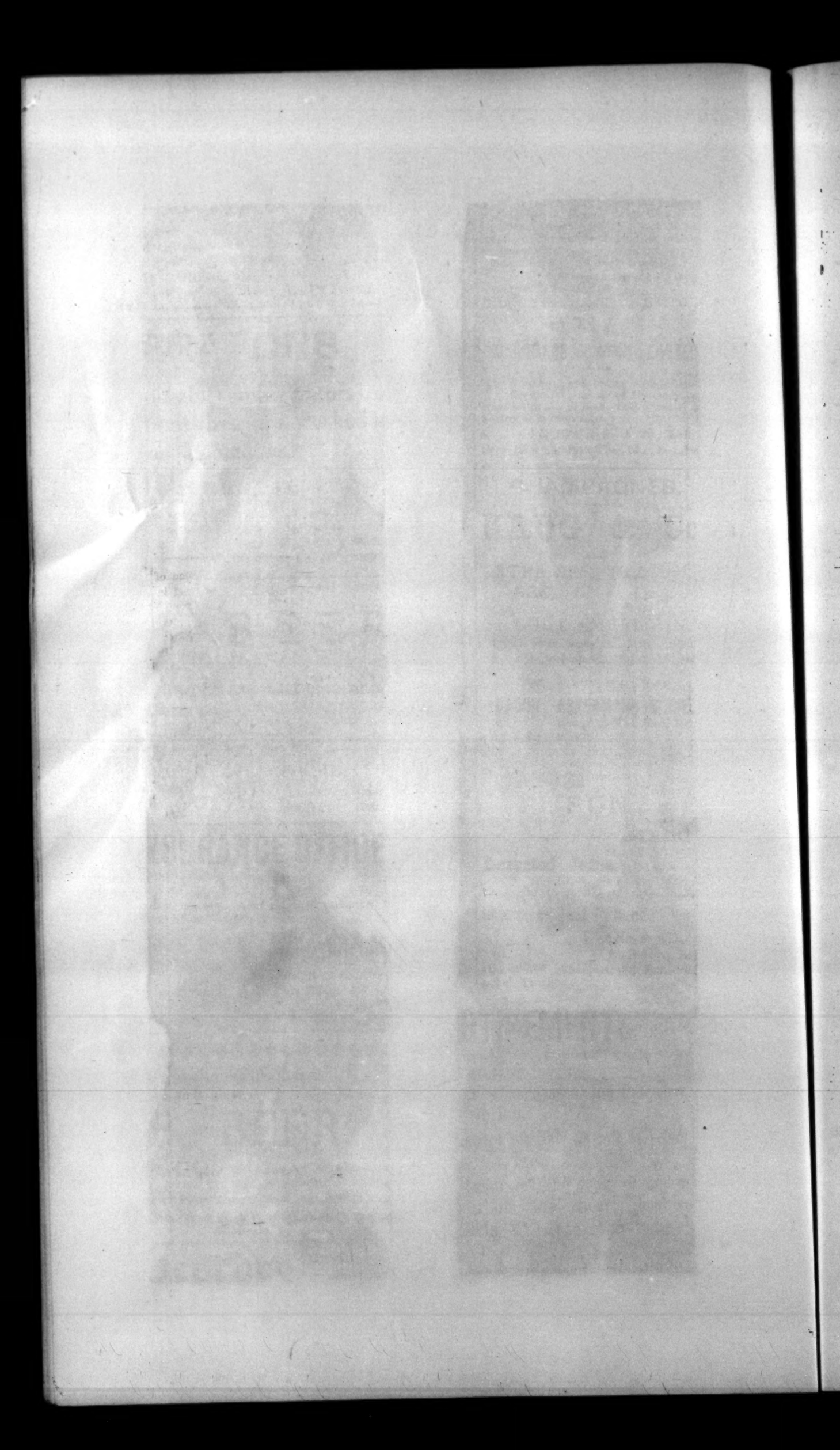
Mr. W. V. DRUMMOND—May we ask that Mr. Bayne will come a little nearer, it is difficult to hear?

MR. CHAIRMAN and GENTLEMEN—My colleagues and myself are present at this meeting in a double capacity, firstly as your elected representatives pledged to maintain your rights and protect your interests, and secondly as Ratepayers who, with others here present, have convened this meeting on a matter of public importance. As representing the Council, in the first instance I propose to lay before you briefly the facts of the case and the grounds upon which our action is based in the disputed question as to procedure for execution of warrants for the arrest of native residents in this Settlement. I would preface my remarks on this subject by asking you, as fellow Ratepayers, to approach this question and to discuss it, in a reasonable, temperate, and conciliatory spirit, leaving nothing unsaid which may strengthen our position and show the justice and necessity of our actions, but saying nothing which might lend colour to the suggestion that this community is not fully capable of the best form of self-government for the general good. I would ask you, gentlemen, to remember that we, the Ratepayers of Shanghai, occupy a unique position, that behind us lie 60 years of government by the community for the community, the results whereof are generally regarded as a remarkable instance of successful Civic Government under conditions of a peculiarly difficult and complex nature. I would have you bear in mind the traditions and principles of administration left us by those who in the past have laboured for our commonwealth, and I would ask you to uphold those traditions, of fairplay, justice and common sense, to-day. Gentlemen, your Council does not come before you in any way doubtful as to the result of this meeting. My colleagues and myself are persuaded that the correspondence published on the subject at issue must have convinced the great majority of this community that the action which we have been reluctantly compelled to take in apparent opposition to the views of the Consular Body was necessary and inevitable. Nevertheless, we felt that in so complicated and difficult a question, involving the possibility (remote, I trust) of serious trouble in the future, it was only right and fitting that you should be placed in a position to judge yourselves of the issues before you. While in no way unwilling to accept that full measure of responsibility which the community has a right to expect from its Council, we feel that an expression of public opinion, supporting our views and expressing confidence in our action, cannot fail to produce beneficial results; such an expression of our opinion, gentlemen, my colleagues and myself confidently anticipate. With it to support us we shall continue, cheerfully, yet in a spirit of moderation, to maintain those vital principles of our Civic Government which, in our opinion, are essential to its continued prosperity. I would have you remember, gentlemen, certain facts which in the heat of controversy may have been overlooked. In addressing this meeting I am not addressing, as some would have it believed, a gathering of irresponsible merchants entrusted merely with the right of scavenging the streets and issuing jinricksha licenses for this Settlement. The Landrenters of Shanghai occupy a unique position which, by consent of all the Treaty Powers, places in their hands special authority and responsibilities; by consent of the Powers they are entitled, contrary to all precedent, to levy taxes for the common good of their Settlement, not only on the foreigners there residing but on the vast native population within Municipal limits. Such rights were recognised by the Powers as an inevitable condition if this Cosmopolitan Settlement was to progress and prosper as a commercial centre. To quote the memorable words of Sir R. Alcock, which represented the views of the Treaty Powers in 1854 when conferring fuller authority upon the Landrenters, "the necessity for the immediate establishment of a Municipality in some form was to be traced to the "impossibility, by any exercise of Consular authority, of making permanent provision for the security of the Settlement without a Municipal Institution." If I quote further from this source, gentlemen, it is because the document in question is one of the highest importance, affording indisputable proof of the intentions of the Powers when self-government was recognised and granted as necessary to the safety and well-being of this community. In another passage we find the following:—"The functions to



be exercised on their behalf by such Council were no longer those of a Road and Jetty Committee, but involved the protection of life and property from causes of national disturbance in the country where they were located, from sources of disquiet and danger within and without the Settlement, where a large native population bid fair to dispute possession with the foreigner for every rood of ground within the limits. And one of the first acts of such Municipality, or rather one of the first and greatest benefits naturally flowing from its creation, would be the legalisation of many measures hitherto forced, by a stern necessity upon the Naval and Civil authorities on the spot, but which could not be justified on any principle of legality." Such, gentlemen, is the charter of our civic liberties, such the foundation on which our predecessors have built up the administration which, I think, we appreciate too much to surrender it without making every reasonable effort in its defence. The Council does not for one moment deny that the government of this Settlement is regulated by the Treaty Powers, or that the Consular Body represents the highest form of authority in carrying out the government under the Land Regulations; what we do maintain is that to the Ratepayers have been entrusted, by the Powers, certain duties and responsibilities, and that until these are withdrawn by the Powers no man can take them from us. I do not think that in the present case, where justice and fair-treatment of our native fellow residents are our only aims, and where the maintenance of established principles our only contention, I do not think, gentlemen, we have any reason to fear that the government of the Powers which gave us the Land Regulations will be led to withdraw or modify them on account of the present differences of opinion with the Senior Consul. The Powers of to-day, as in 1854, perceive no doubt in a place so peculiarly situated as this, "the want of some authority by which all the diverse elements of the cosmopolitan settlement in the occupation of foreigners of many nations and of a native population, might be welded together; and something of unity in constitution, purpose and government imparted for the common advantage."

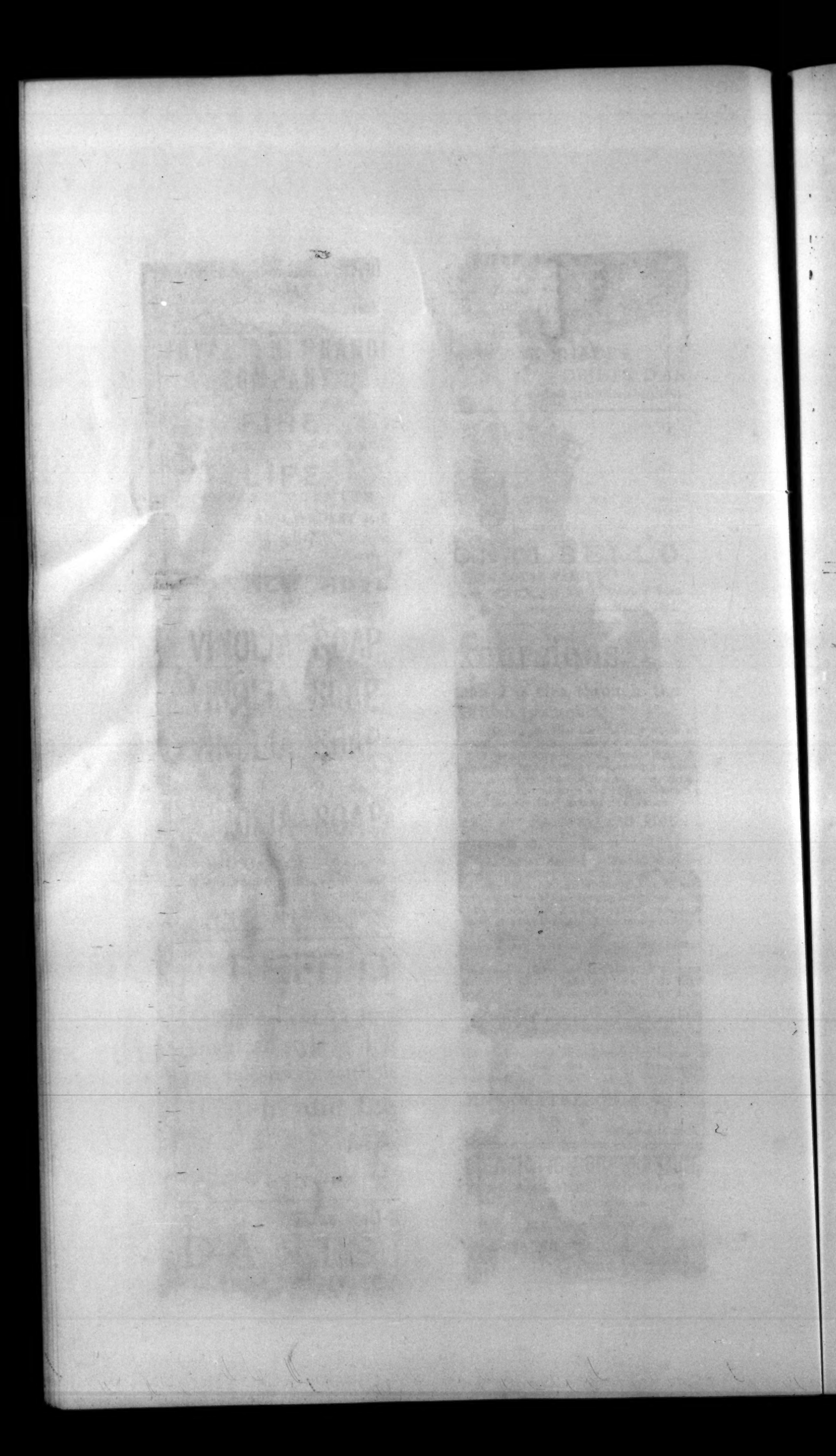
I allnded just now to the Council's difference of opinion with the Senior Consul. The words were used advisedly, because we have good reason to believe that the views contained in Mr. Goodnow's letter of the 2nd instant—to which I am about to draw your attention—no longer represent in their entirety the opinions of the Consular Body as a whole. And this brings us, gentlemen, face to face with the subject of this meeting. This correspondence which has recently passed between the Consular Body and the Council is, I believe, in your hands. We may, I think, disregard at present the questions therein raised by the claims of the French Consul-General to jurisdiction and control over natives in this Settlement, since those claims are now to form the subject of discussion between Monsieur Ratard and a special committee appointed by the Consular Body, by which means we have reason to hope that the present attitude of the French Consulate will in due course be very greatly modified. In any case, and pending settlement of what has become strictly speaking an international question, we hope and trust that Monsieur Ratard will abstain from asserting claims which are admittedly untenable, and that with such abstention may be restored and maintained those harmonious relations which have always existed between the two Settlements in the past. A word of explanation seems advisable in regard to a point on which the Senior Consul lays much stress, and whereby he justifies his countersignature of the second warrant issued by the French Mixed Court in the Tai Sung-chang case. His defence of that action rests, as he has stated, on precedents. Gentlemen, the Council has reason to believe that the Police of this Settlement have in the past on their own responsibility and without the knowledge or sanction of the Council, occasionally complied with requests of the French Police in regard to the execution of warrants, and thus afforded ground for the statement that precedents exist for the Senior Consul's action in the present case. Even admitting this fact, gentlemen, the Council entirely denies the Senior Consul's conclusions therefrom. Mr. Goodnow has occupied the position of Senior Consul for a considerable time—yet he was himself ignorant of those precedents to which he subsequently referred as affording sufficient justification for complying with the French Consul's claims; the fact being sufficiently proved by his cancellation of his countersignature on the first warrant. If therefore neither the Senior Consul, who is responsible for the issue of warrants, nor the Council, charged with their execution, were aware of precedents for the action taken by the French Authorities on this occasion; if moreover that action was admittedly contrary to the existing agreements on the subject, which necessitate preliminary trial in all cases at the Mixed Court of this Settlement, we may, I think, rightly conclude that any such precedents have been established without authority, and are not properly citable in justification of their repetition. There is another point which requires explanation; it has been freely stated in the local Press and elsewhere that the Council refused execution of the warrant in this case in opposition to the Consular Body's decision. This is entirely incorrect. The Council declined to give effect thereto upon the personal instructions of the Senior Consul, verbally communicated to myself, on the sole ground that the decision in a matter of such serious importance to the community should properly form the subject of consideration by the entire Consular Body. The published correspondence shows that an understanding to this effect had in fact been given by Mr. Goodnow; even



without it, however, the Council held, and holds, the opinion that, whatever the views of the Senior Consul, the community has a perfect right to request consideration of such a question by the representatives of the Powers, and that the arrangements under which the Senior Consul acts were never intended to place in his hands such a measure of arbitrary and indisputable authority as that which, in effect, he claims in his letter of the 2nd instant. (Applause.) That letter, gentlemen, and the general claims therein asserted for the first time in the history of this Settlement, afforded the reason for our convening this meeting. As representatives of the Ratepayers we have formally expressed our inability to comply with a demand which denies to the Municipality the right, freely exercised heretofore in the public interests, of "discussing or disputing" the expediency of executing warrants countersigned by the Senior Consul. We claim and must continue to claim the right to communicate to the Consular Body our views in every case, where we have reason to believe that the action of those responsible for the issue of native warrants is prejudicial to the general interests or fraught with injustice to the individual; and especially do we consider it our duty to make such representations in cases where native defendants charged with no criminal offence are required to be taken for trial beyond Municipal limits. It is the Council's earnest hope that such cases will not occur again, and that the proper procedure of trial at this Mixed Court of this Settlement will hereafter be strictly adhered to. There is no justifiable precedent for any other. (Applause.) The important fact remains, gentlemen, that in the present instance, and with a view to avoiding friction, which could only prejudice our common interests, the Council did not refuse execution of the warrant when the case had been considered by the Consular Body. My colleagues and myself merely declined to comply with the personal and unauthorised instructions of Mr. Goodnow on this subject, and thi brings me, gentlemen, to the consideration of certain personal matters on which I speak with great reluctance, and with full knowledge of responsibility. As Chairman of the Council, I would earnestly assure you that nothing but a strong sense of public duty would lead my colleagues and myself to make or to countenance any reference to action taken by Mr. Goodnow in his official capacity in matters which are not directly connected with the subject before the meeting. The blame, however, must not rest with us. Mr. Goodnow had claimed for himself, and exercised as Senior Consul, powers and authority, contrary to all precedent and subversive of all the traditions of our local government. (Applause.) In a letter which, both in matter and manner stands out in marked contrast to the correspondence of Senior Consuls in the past, he insists that "all warrants countersigned by the Senior Consul shall be served and executed without delay." Gentlemen, we prefer to retain the time-honoured right of making reasonable representations on behalf of native residents, and to submit cases of irregularity or malpractice for the consideration of the Consular Body. Human nature is an extremely uncertain quality when you place in its power unrestricted authority over those who have no means of resistance, and our relations with Mr. Goodnow since he assumed the duties of Senior Consul have not been reassuring on this point. (Laughter.) I repeat, gentlemen, it is with reluctance that the Council alludes to these matters, but my colleagues and myself are convinced that

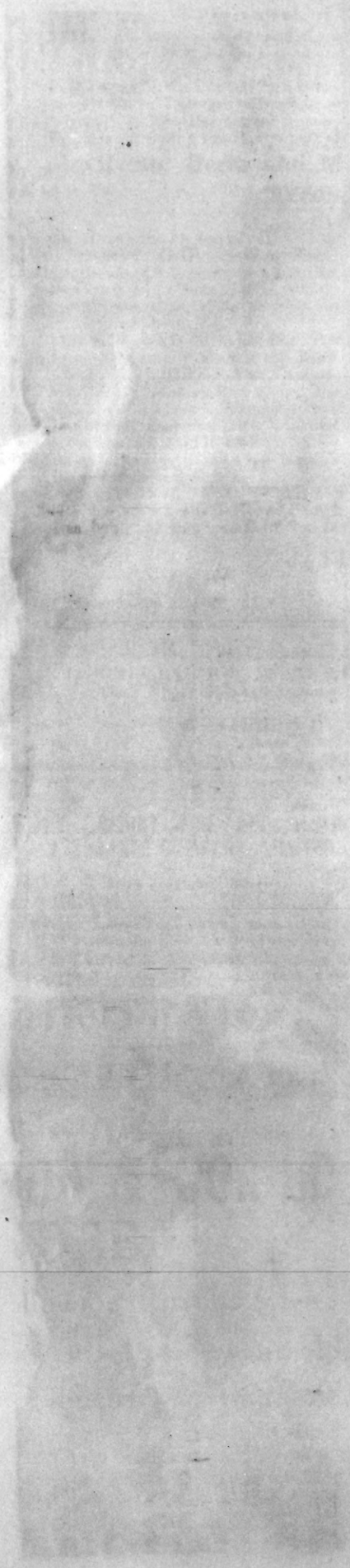
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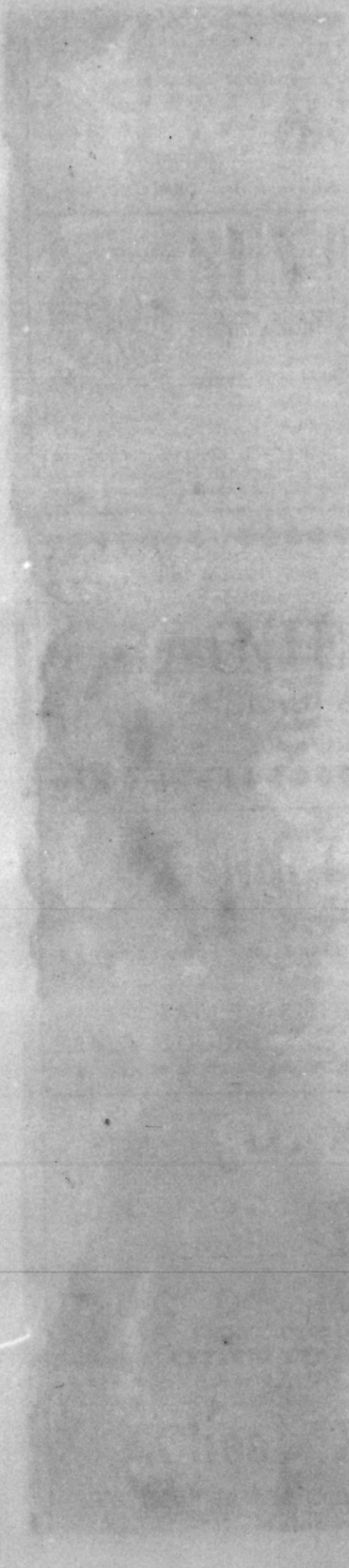
rightly to appreciate the actual position of affairs, the community should be placed in possession of all the facts. We have not overlooked the consideration that such personal references should not be made without affording full opportunity for reply, and our intentions in this matter were therefore communicated some days ago to Mr. Goodnow. Gentlemen, the present Senior Consul has laid claim to the investment of his office with a measure of arbitrary authority never claimed or exercised by any of his predecessors. His countersignature on warrants is to be without appeal, disposing in conjunction with Chinese officials, of the persons and property of native residents. We can find no stronger objection to this general claim than the official actions and policy of Mr. Goodnow himself. That, during his occupancy of the post, the relations between the Senior Consul and the Council have been frequently strained, is matter of common knowledge; as a rule, however, we have considered it our duty not to bring publicity to bear on the facts, the Council's invariable object being the avoidance of unnecessary friction. In the connection of the U. S. Consulate with Mr. Kingsmill's Shengko land cases, there has been however a continual source of unrest. It will be within the recollection of many here present that on one particular occasion, a warant countersigned by the Senior Consul, Mr. Valdez, and issued as the result of action taken by the U. S. Consul-General on a charge preferred through his Consulate by Mr. Kingsmill, resulted in the commitment to the city of a certain native landowner without the usual form of trial before an Assessor. The defendant was subsequently released as the result of action instituted by the Council; any one interested in the facts will find them fully reported in the Council's minutes of the 2nd August, 1900. I think, gentlemen, that such a case in itself affords sufficient ground for objecting to the immediate and unquestioned execution by the Council of all warrants countersigned by the Senior Consul. (Applause.)



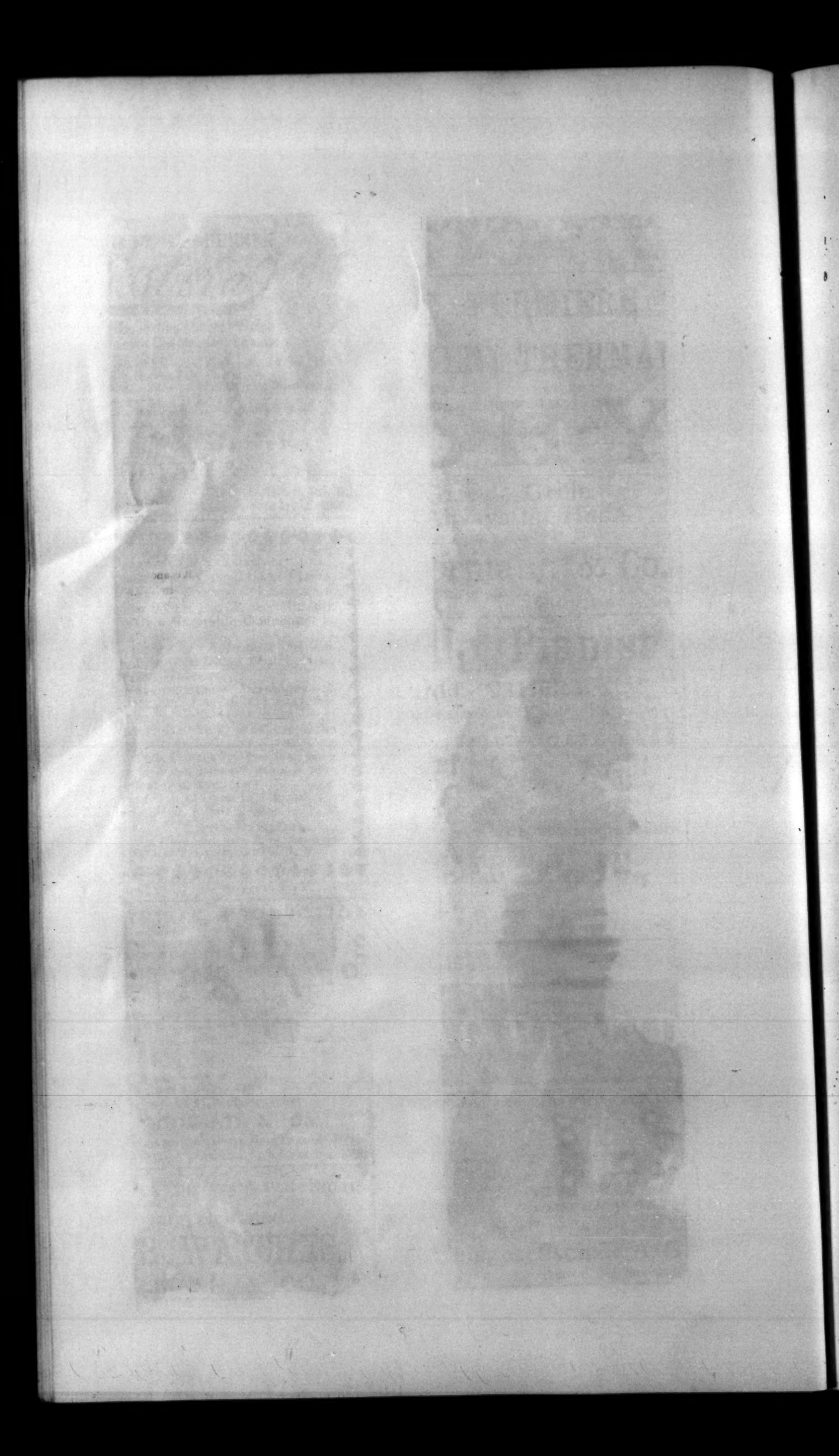
On another occasion, at a hearing in the U.S. Consulate Land Office of a matter arising out of Mr. Kingsmill's Shengko deeds, the U.S. Consul-General, while referring to the Council in language unbecoming a Consular Official, stated that the Council should not bring another such matter before him again unless it undertook in advance to accept his jurisdiction therein. I will not comment further on the untenable nature of such a claim, because the whole matter is likely hereafter to form the subject of litigation. The whole policy of the present Senior Consul—I say it advisedly and with full sense of reponsibility—appears to the Council to have been to increase his own personal authority and influence with the Chinese officials to the detriment of the community's interests. Let me quote a typical and recent instance of such action. Early in March, at the request of the Chinese authorities, without notifying the Council, and without trial of the defendants at the Mixed Court, he authorised the Mixed Court Magistrate to close the establishment of a certain native newspaper office in the Settlement, on the ground of an alleged blasphemous article against the Confucian religion. On this occasion the Council took immediate steps to rectify matters, and the case was allowed to drop. This and other incidents, however, justify us, I think, in regarding the Tai Sun-chang case and its results as a further manifestation of an attitude and actions which this community is not accustomed to look for in the Senior Consulate, and which might well be eliminated in the general interests. (Applause.) In conclusion, gentlemen, and summing up the matter, you will have seen from a careful consideration of the correspondence, that there are now two very serious points of difference between the Council and the Senior Consul, which have yet to be settled, and in regard to which my colleagues and myself hope that you will not only approve what we have done, but will also strengthen our hands so far as you possibly can, in continuing our efforts to have these two matters so settled for the future that the safety of native residents in this Settlement may be fully secured. These two points are: (1) That no native shall be forcibly removed beyond the boundaries of this Settlement without a preliminary hearing at the Mixed Court of this Settlement: and (2) That no exception to this rule shall be made as regards the French Mixed Court. As regards the first, it is one of the corner stones of the edifice constituting the charter under which we live here, and there are strong reasons for maintaining it intact which I need not go into now further than I have already done. As regards the second point, I may remind you that the constitution of the French Mixed Court is so different, in several matters of the highest importance, from the Mixed Court in this Settlement, that it would be a fatal error to permit an exception to be made in regard to it. There are at least three regulations of the French Mixed Court which would have to be entirely changed before that Court can be placed on a level with the Mixed Court of this Settlement so far as the protection of native residents in this Settlement is concerned. With this explanation, gentlemen, it remains for me only, in conclusion, to say that what we have done in this matter has been done, to the best of our ability, for the good of the Settlement, as we understand it. It will be extremely gratifying and encouraging to my colleagues and myself to receive from you an expression of your confidence and support, which will go far, I feel convinced, to prevent the recurrence of such regrettable incidents. (Applause.)

Mr. DRUMMOND—The address which you have heard from the lips of the Chairman of the Council must, I think, have satisfied you all that the present members of the Council are animated by a serious desire, even at the cost of much personal inconvenience and unpleasantness of performing the duties which have been entrusted to them, and which they have undertaken to carry out, especially as regards the safeguarding of the rights and liberties of the residents of the International Settlement. I do not propose to touch upon any personalities, but to adhere as closely as possible to principles and facts which are connected with the immediate points at issue between the Council and the Consular Body. A great deal has been already published with regard to this matter, which lies outside the range of these special issues, and to which all reference may well be omitted to-day. At the conclusion of the Chairman's speech he has told us that there are two distinct points upon which the Chairman and upon which the Council and the Senior Consul are now at issue. These points have yet to be settled, and he asks you to do two things, to express your approval of the action of the Council in this matter hitherto, and to do what you can, what lies in your power, towards strengthening the position of the Council in getting these matters satisfactorily adjusted in a way to preserve the rights and liberties of all residents of this International Settlement. He further mentions that there are now two points, and practically two points only, that have to be definitely settled. The first is that no Chinese resident in this Settlement shall be arrested and forcibly removed outside the limits of this Settlement without having first been taken to the Mixed Court of this Settlement for a preliminary hearing of the case, or charge, against him. The second point is that the French Mixed Court shall not be allowed to be considered as an exception to the foregoing rule. He then has told us that as regards the first point he does not propose to go into any further details or reasons beyond those he had previously given, and as regards the second point he says that there are several fundamental reasons why it is impossible to allow an exception to be made in favour of the French Mixed Court, and he says that there are at least three very great differences

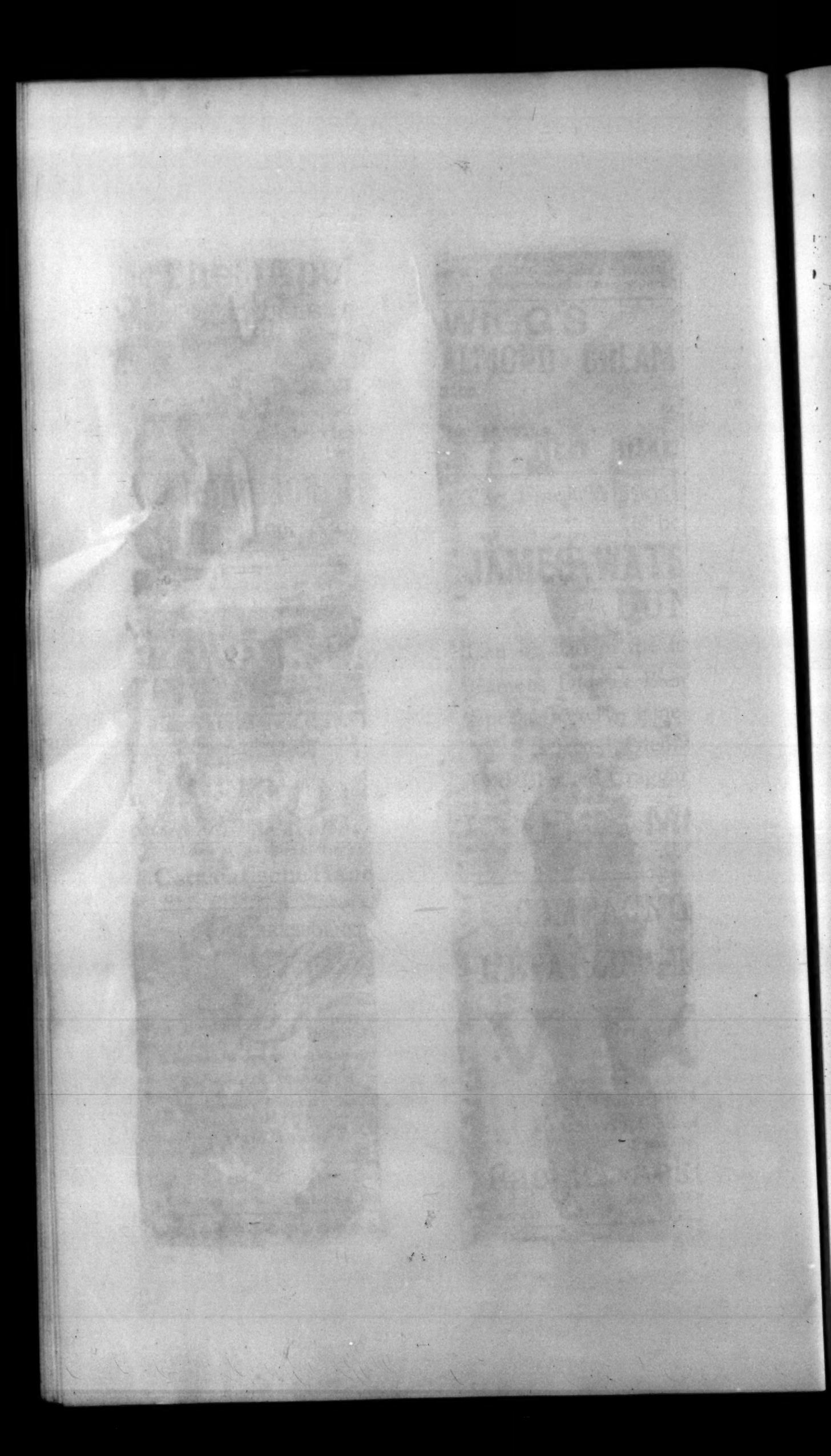




between the French Mixed Court and the International Mixed Court which have to be dealt with before the former can be considered as on a level with the latter. I propose to submit to you a resolution which I think will be a satisfactory answer to what the Council asks from you: "That this meeting is satisfied with and approves the action of the Municipal Council in regard to the matter now under discussion, and further desires to express its earnest hope that the Council will use its strongest efforts to prevent the arrest and forcible removal of native residents of the International Settlement beyond the limits of the Settlement without a preliminary enquiry at the Mixed Court of the International Settlement in all cases without exception." The resolution that I have read to you, as you will see, meets both the requests of the Chairman of the Council, namely, it expresses approval of the Council's action in bringing this matter before you, and secondly it gives him the authority from yourselves for which he asks, in order that the Council may be placed in a strong position in further negotiations about this matter. I may say that I think that it is a very fortunate circumstance that the letter from Mr. Goodnow to Mr. Mansfield was published last night and this morning, as we have had a great deal of information on the part of the Council as to their rules, but little from the Consular side practically, except Mr. Goodnow's letter of the 2nd inst., a letter which has necessitated the holding of this meeting. We are now therefore in a position to judge both sides of this controversy, and it seems to me that it is not difficult now to extract from it the fact that there are only two points of importance, just as the Chairman has already stated. In Mr. Goodnow's letter there are two things that strike me as important. The first thing is that the case rests primarily upon the fact of precedence for police action in executing warrants issued at the French Mixed Court for an enquiry. The Senior Consul, as I understand, relies upon this succession of precedence. With regard to that it is in the first instance, I think, necessary to admit that the fact of so many cases having occurred which the Council tell us were carried out without their knowledge or sanction cannot be a satisfactory matter in the minds of the Ratepayers, as it seems to be the case that this arrangement has been carried out practically by the police for their own convenience, and without the knowledge or approval of the Municipal Council, or of the Senior Consul. The attention of the Consul had not been drawn to it until quite recently; the attention of the Council was not drawn to it until the occurrence of the particular case of Tai Sun-chang. When the Council's attention was drawn to it, to this particular case, they appear to have carefully enquired into it, and come to the conclusion that it was a wrong practice, and that it was one which ought never to have taken place, and one that could not be permitted to occur in the future, with due regard to the duties of their position. I think it must be clear therefore why all this precedence, upon which so much relies, has placed what was a wrongful act into a rightful one; and while it is greatly to be regretted that such an important matter should be carried on by the police without the knowledge of the Council, still they cannot be permitted to make a binding law upon themselves, or a future Council, now that the matter has been discovered and investigated. The other point which appears to me to be the one serious point in Mr. Goodnow's letter, is that the arrangement made that no Chinese shall be taken out of this Settlement without a preliminary enquiry at the Mixed Court had no application to the French Mixed Court, and he argues that the two Mixed Courts are on practically an equal footing, that they ought to be treated as such, and that the warrants of each Court ought to be executed as if the International Settlement and the French Concession were both in fact one. He uses at the end of the paragraph the word "Settlements." Now it must be remembered that there is no such thing in existence as two Settlements. On this side there is the International Settlement, and on the other side there is what has always been called, and known, as the French Concession. The word "Settlements" has never been used in local history, and is a misnomer and cannot properly be applied now. The difference is between the constitution and the form of government in this Settlement and the French Concession, and the difference, as the Chairman of the Council has already suggested, between the constitution and the procedure of the French Mixed Court and the constitution and procedure of the International Mixed Court is so great, that it is impossible to put them both on the same plane. The three reasons which the Council have mentioned, the three principal reasons, are no doubt these: First, the language, the one and only language which a great proportion of the native residents of this Settlement understand and use in connection with their business operations is English. If therefore a native has to be tried, either on a criminal charge, or in connection with civil business, it is absolutely necessary in fairness to him that if any other language is to be used in the Courts outside his own that language must be English. We know from a case published in the papers within the last few days that the regulations at the French Mixed Court actually prohibit the use of any language except French and Chinese in that Court. This fact alone makes it entirely unfair that a native resident in this Settlement should be tried in that Court, where the use of the English language is actually prohibited, while in the International Mixed Court the proceedings against him could be carried on in that language. Secondly, the regulations of the



French Mixed Court prohibit the appearance of lawyers, or legal advisers in proceedings in that Court. An exception may be made here and there as a matter of grace, but that is wholly insufficient. The regulation rules that natives are prohibited from having the benefit of the services of legal men to help them when defending themselves in this Court. They have an absolute right to the services of legal men in the International Mixed Court, that right having been distinctly laid down at least once, if not oftener, by the Chinese Government. And thirdly, in a case against a Chinese defendant in the French Mixed Court in which the foreigner, whether he be English, American, or German is concerned, the foreigner interested cannot have an officer of his own nationality sitting as assessor on the bench. This right he has in the International Mixed Court, and therefore that again is a vital difference between the practice of the Courts. These three great differences therefore go to show that until they are wholly removed, the French Mixed Court cannot be considered as on a level with the International Mixed Court as a tribunal to which the interests of native residents in this Settlement can safely be entrusted. Now a few words as to the general position. I think it must be perfectly clear that the constitution of this Settlement has been correctly represented by the Chairman of the Municipal Council in its most substantial feature. When the population of Shanghai began to grow to considerable dimensions it was clear that, as now, treaties in jurisdiction over the natives of this Settlement had been given to no foreign governments, and as the Chinese were coming to live in this Settlement in large numbers in close proximity to foreigners, it was absolutely necessary that arrangements should be made for the necessities of civilised life. As the Powers then concerned had no funds to provide for this purpose, and had no machinery for raising funds to meet these expenses, it was necessary that some system should be devised to cover this ground, and thus we find a constitution given to this place by Mr. Rutherford Alcock and the American and French Consuls in 1854. Practically, the government of this place has has been from that time forward placed in the hands of the representatives of this community. The police therefore are the paid servants of the Ratepayers, and under the direct orders of the Municipal Council as representing the Ratepayers, and to nobody else. It is therefore, I venture to submit to you, not within the competence even of the Senior Consul of the Consular Body to use the words "That he must insist upon the police obeying his orders." Now one word with regard to a point which has been raised by the Senior Consul and forms a prominent point in his statement, namely, that the act of the Senior Consul in countersigning the warrant is a judicial act, and that for the Council to attempt to exercise a discretionary power in carrying out, or refusing to carry out, such a warrant would amount to an attempt on the part of the Council to exercise a judicial function. I would suggest to you that neither does the Senior Consul, when he affixes or refuses to affix his seal to a warrant, undertake a judicial act, nor does the Council when it refuses to authorise the execution of a warrant exercise a judicial act either. In both these cases it is clearly an executive, or administrative act. The Senior Consul may affix his seal, as we are told he did, in his letter of 1898, as practically a matter of course and a matter of form. If from any reason he chooses to refuse to do it, it cannot be said that in so doing he is performing a judicial act. If he were he would be making himself a judge over the native Chinese, for which he has no sanction in any treaty. In the same way if the Council, that is the Council's police officer, receives a warrant duly stamped and countersigned, it is his duty to convey the person arrested, as a matter of course, to the International Mixed Court, and nowhere else. And in so doing he does nothing beyond an executive act. The judicial work begins entirely when the accused and the defendant are before the Court of his own nationality, and not sooner. It is surely not necessary to enter more fully into that point, which if it be seriously adhered to will doubtless receive due attention hereafter. I think that I have now put before you as concisely as I can, the reasons why I think you ought to support your elected representatives on the Council, fully and firmly, in the matters now under discussion. An arrangement, a new arrangement, must doubtless be made to cover all the grounds in dispute, if such arrangements can possibly be made without the Municipal Council being parties to it. And I think that we should ask the Council distinctly not to assent to any such arrangements as would permit the forcible removal of any Chinese residents of this Settlement beyond the limits of this Settlement, either to Chinese Courts or the French Mixed Court or any other, without in every case previously a preliminary enquiry at the Mixed Court of this International Settlement. And if the Municipal Council should fail to obtain such an arrangement by negotiation with the Consular Body, I think that it should be clearly understood that the Ratepayers distinctly desire that they will, in such a case, appeal directly to the Governments of Great Britain and the United States for the necessary support.



Mr. E. JENNER HOGG—The Chairman of the Council has given us a very clear statement of the question at issue, and the proposer of the resolution has dealt so fully with it that it leaves very little for me to say. I maintain that the Municipal Council has acquired a right to extend a protecting arm and a surveillance over the Chinese residing in our midst. The remarks that have been made by Mr. Drummond must have borne to you the conviction, which no doubt you had previously, that we have acquired these rights and we must stick to them until they are torn away from us, and it will be a very bad day for Shanghai if we lose them. The extraordinary thing to me is to see the pertinacity with which the Senior Consul has pressed this matter, in spite of those precedents that are recognised, and one almost seeks some hidden reason. I say "precedents recognised" because I cannot place much importance on those cited by Mr. Goodnow in a private letter to Mr. Mansfield, but published in a newspaper,—a queer way of communicating with the public, by the way, when there is a definite body of men representing the public—as it is clear that most, if not all of these so-called "precedents" were the acts of departments—or subordinates—in the face of rules. Working through the course of years, and finding our strong and our weak points in our Local Government, we arrive at 1898 where a good working arrangement was made, in Consuls and Council working together for the common weal. Other earlier practices may have been good or bad, but here is surely a good and an actual precedent that none of the best interests of the place should be disturbed, and yet this letter of the Senior Consul of the 2nd of May. I say that this letter of the 2nd of May never should have been written, and I say too that the Municipal Council could not accept the principle therein laid down. Mr. Goodnow drove them to put their backs to the wall, and on him be the blame for all this friction, and this destruction of harmony, which it is so essential should prevail. A temporary modus vivendi had been found and he shattered it. Our claim is that in this International Settlement, the Council shall have the power and the right to see that the proper steps are taken so that natives of this Settlement shall be treated as provided for by the Senior Consul in 1898—that accused Chinese before being taken outside the limits of the Settlement, should be tried before the Mixed Court to ascertain who was the judge. That is what we want to-day, and this being what we desire, I have no doubt this meeting will support this resolution, which endorses the action of the Council with the fullest cordiality. (Applause.)

The CHAIRMAN—The following resolution has been proposed by Mr. W. V. Drummond, and seconded by Mr. E. Jenner Hogg :—

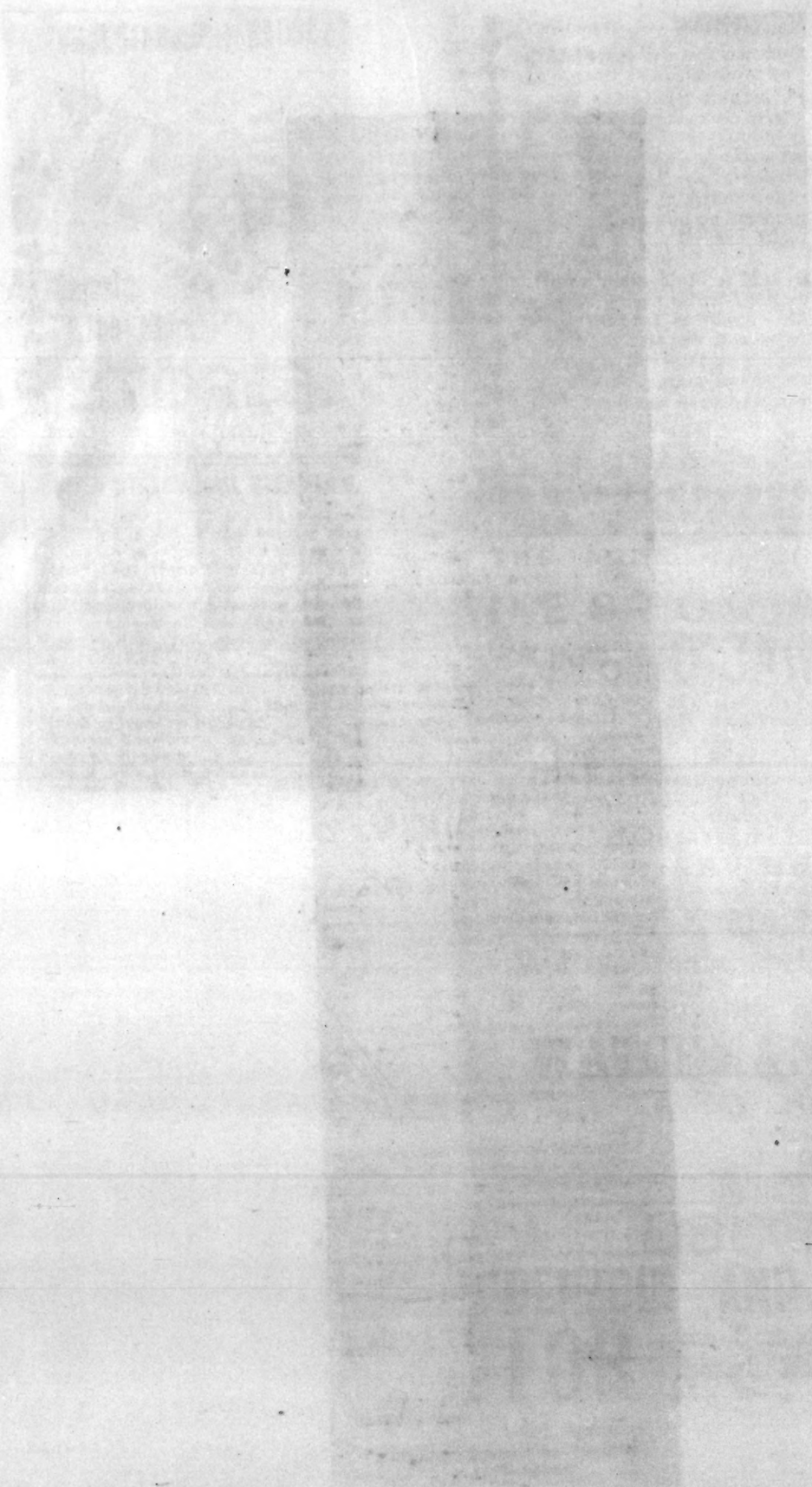
"That this meeting is satisfied with and approves the action of the Municipal Council in regard to the matter now under discussion, and further desires to express an earnest hope that the Council will use its strongest efforts to prevent the arrest and forcible removal of native residents of the International Settlement beyond the limits of the Settlement without a preliminary enquiry at the Mixed Court of the International Settlement, in all cases without any exception."

This resolution is now before the meeting, and we shall be very glad to hear any remarks that may be made upon the subject. If no one has anything to say, I will put the resolution to the meeting.

The resolution was formally put to the meeting, and declared by the Chairman carried unanimously.

Mr. W. G. BAYNE—I thank you very much for your presence here to-day in such large numbers, and I would ask you to return a vote of thanks to Mr. Scott for the way he has managed his business in the chair.

The vote of thanks to the Chairman having been accorded, the meeting ended.



Consular Service, U.S.A.
Shanghai, 19th May, 1904.

SIR,—I beg to call the attention of the Council to the following paragraph in the speech of the Chairman of the Council on the 16th.

"Early in March, at the request of the Chinese authorities, without notifying the Council, and without trial of the defendants at the Mixed Court, the Senior Consul authorized the Mixed Court Magistrate to close the establishment of a certain newspaper office in the Settlement, on the ground of an alleged blasphemous article against the Confucian religion. On this occasion the Council took immediate steps to rectify matters, and the case was allowed to drop."

Now the facts of the matter are as follows. On January 10th, H.E. the Taotai of Shanghai wrote to the Consular Body asking the Consuls to suppress a certain monthly Chinese paper (春江花月報) for having published an exceedingly indecent article. The article in question was in praise of the pleasures to be found in houses of prostitution and instructions to boys as to their behaviour in such places. I laid the matter before the Consular Body and, as instructed, replied as follows on February 4th.

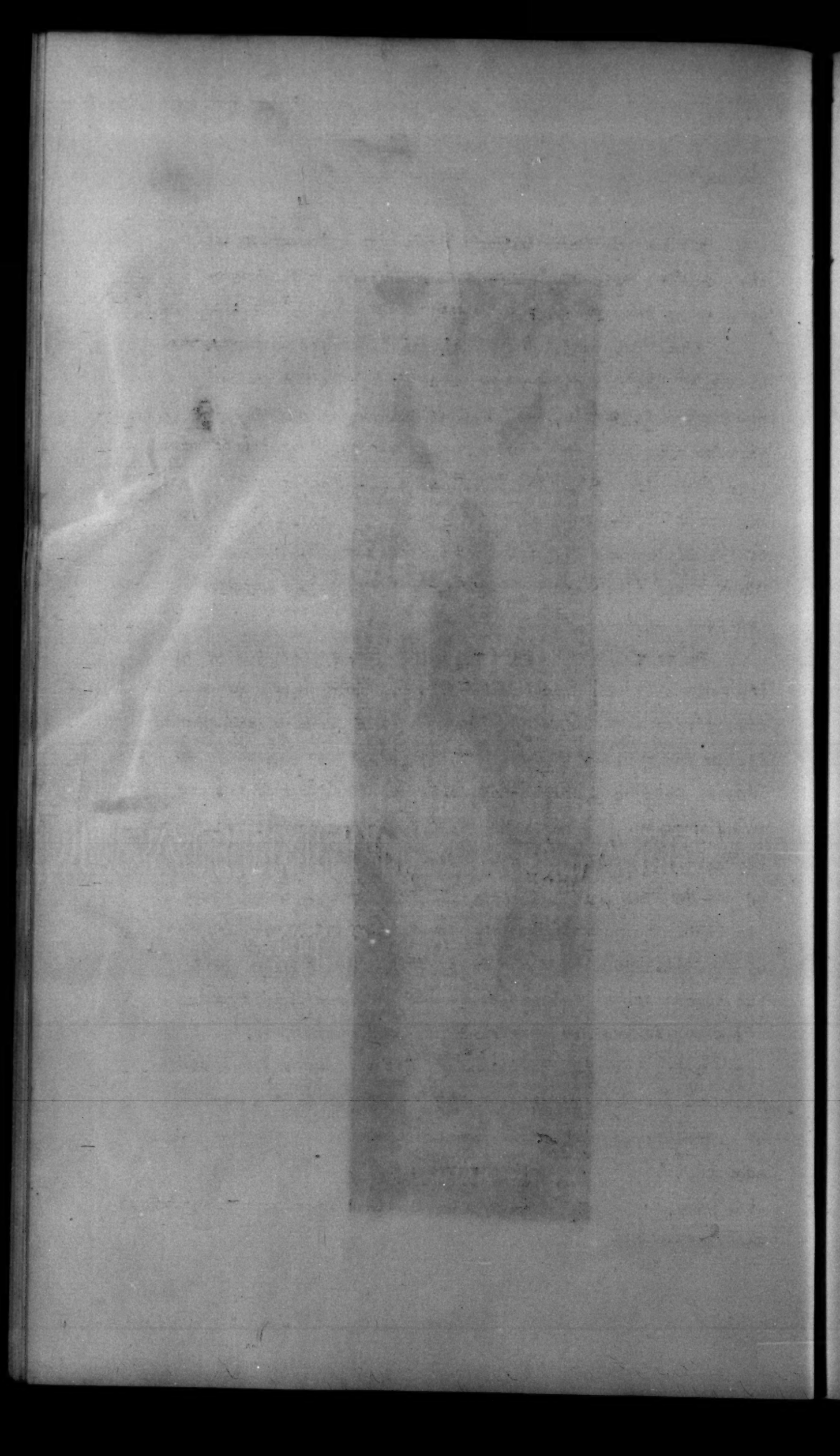
"I have received your letter of January, 10th, asking the Consuls to suppress a monthly Chinese paper (春江花月報) and have submitted the same to the Consular Body. Upon investigation we find that the said paper is owned by Chinese and that the proper person to prosecute it is the Mixed Court Magistrate. I am instructed to say that we sympathise thoroughly with you in your opposition to indecent publications and that we will prosecute at once any indecent papers owned by foreigners."

Nothing further passed and I heard nothing more of the matter until your speech of May 16th. I have since found that the Taotai put his seals on the door of this vile paper; that a day or two afterwards the seals were torn down by the Police and the paper told to publish as usual; but that the proprietor has left and the paper has not resumed publication.

You could have found the above facts at any time had you applied to me. I regret exceedingly that the gentlemen of the Council have been put in the position of defending the publication of bawdy house literature. I hand you herewith a Chinese copy of the article in question and a translation thereof. This translation, of course, is unprintable. I would ask you to give this letter (without the translation in question) immediate publication in the papers which published your speech.

I am, etc.,
JOHN GOODNOW.
Consul-General.

W. G. BAYNE, Esq.,
Chairman, Municipal Council,
Shanghai.



C O P Y.

No. 02/277 23rd, May, 1902

Sir:

I have the honor to submit for the information of the Consular Body the following resolution, unanimously adopted by the Special Meeting of Ratepayers on the 16th inst.

"That this meeting is satisfied with and approves the action of the Municipal Council in regard to the matter now under discussion, and further desires to express an earnest hope that the Council will use its strongest efforts to prevent the arrest and forcible removal of native residents of the International Settlement beyond the limits of the Settlement without a preliminery enquiry at the Mixed Court of the International Settlement in all cases without any exception."

On behalf of the Council I have the honour to express the hope that the procedure herein referred to may commend itself to the Consular Body on general grounds of expediency and in the Public interest. The Captain Superintendent of Police does not anticipate either difficulties or delay in maintáining a regular and uniform system, reciprocal under similar conditions with the French Settlement, and based on the general principle that the Defendant in every case is liable to be tried in the first instance at the Court of the Settlement in which he is domiciled, leaving it to the discretion of that Court to send the case elsewhere whenever necessary or advisable. While admitting that some little time may be required to familiarise the Mixed Court Magistrates and their native staff with this fixity of procedure, the matter is one that will no doubt be readily adjusted with the Co-operation of the Consular Body and the results to residents can not fail to be of general benefit and convenience.

As an instance of the insecurity and irregularity which exist in the absence of such recognized and uniform procedure, I have the honour to enclose herewith copy of a statement made by a native, recently defendant in a civil suit at the French Mixed Court, supported by corroborative evidence. The facts speak for themselves.

I have the honour to be

Sir,

Your obedient servant,

(signed(Wm. Geo. Bayne,

Chairman.

Copy.

Shanghai, May 27th, 1902

W. C. Bayne, Esq.,
Chairman Municipal Council,
Shanghai.

Sir:

Replying to your 02/277 of May 23rd, 1902 submitting to the Consular Body the Resolution adopted at the special meeting of the Ratepayers held May 16th, 1902, I am instucted by the Consular Body unanimously to reply as required by Land Regulations XV, as follows:

The Consular Body can not concur with that part of the resolution expressing satisfaction with and approval of the action of the Municipal Council in refusing to allow the execution of a regularly signed and stamped warrant

The relations between the Chinese Courts in the two Settlements have been for some time in the hands of a Committee consisting of the Consuls General for Germany, France and Great Britain, who are giving the matter most careful study asit affects not only the relations between the two Settlements but also our relations with other jurisdictions.

As the resolutions submitted covers both points referred to above, the Consular Body has instructed me to signify to you its non-consurrence with the resolution.

Pending the report of the above mentioned Committee, we can not agree to any chang in the established practice of executing warrants.

I have the honor to be
Sir,
Your obedient servant,
(signed) John Goodnow,
Senior Consul.

C O P Y.

02/297 30th May, 1902

Sir:

In reply to your letter of the 27th inst. I have the honour to state that the Ratepayers Resolution of the 16th inst. was forwarded for the information of the Consular Body and not for any purpose connected with Land Regulation XV.

The Council has never willingly departed from the practice defined in the Senior Consul's letter of 5th Dec. 1898 and trusts that in continuing to observe the procedure formally approved, it will be deemed to act in strict accordance with its duty.

I have the honor to be

Sir,

Your obedient servant,

(signed) Wm. C. Bayne,

Chairman.

J. Goodnow, Esq.,

U. S. Consul General

and Senior Consul.

No. 453.

Consulate-General of the United States,

Shanghai June 3 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Replying to your 313 of April 19th, relating to a letter sent me by R. Peugnet, Esq. of New York City,- I have no remembrance of having received any such letter, nor do I find it in my files.

I hand you herewith a letter to Mr. Peugnet, with an accounting for the effects of E. Peugnet found in this Consular District.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

COPY.

Consular Service, U.S.A.,

Shanghai June 3, 1902.

Ramsay Peugnet, Esq.,

487 Broadway, New York City.

Sir:-

I beg to hand you the account of your Brother, Eugene Peugnet's effects, as found in this District.

Due him by E. L. Mondon		Mex. $ 81.85
Sale of furniture by E. L. Mondon, on January 25, 1900.	Taels 51.-	68.26
Sale of miscellaneous property(a/c attached)		48.40
	Total	198.51
Paid Wilck & Mielenhausen		$ 61.50
" Hirsbrunner & Co.		31.00
" Inventory, Clerk and Marshall's fees		34.50
" By check herewith (U.S.G. $29.43.)		71.51
	Total	198.51

I do not find any account of a gold watch such as you refer to in your letter. Mr. Derby, the U. S. Marshall, is now in the United States, but he is expected to return in August when I will at once ask him in regard to any such thing and will write you.

I am, Sir, your obedient servant

John Goodnow,

Consul General.

COPY.

Consular Service, U.S.A.,

Shanghai June 3rd, 1902.

EFFECTS OF THE LATE EUGENE PEUGNET, sold at Public Auction, April 27th, 1900, by L. Moore & Co.

1 skin box	Tls.	2.50
4 cellular shirts	"	5.00
3 white shirts and collars	"	3.50
1 coat and trousers	"	4.00
2 pairs pants and one vest	"	4.50
1 white coat and 2 pairs trousers	"	7.00
1 pair riding pants and cummerbund	"	1.00
2 pairs trousers and 3 coats	"	7.75
3 drawers 1 singlet and 1 suit pjamas	"	3.00
1 rubber pillow	"	1.00
Total	Tls.	39.25
Advertising and Commission	"	3.25
Net proceeds		36.00

JUL 2 '02
DEPT OF STATE

File.

No 454

Consulate-General of the United States,

Shanghai, June 4th , 1902.

Mr. Goodnow,

To the Department of State.

Subject:

Leave of Absence.

Abstract of Contents.

Confirming telegrams. Will not take leave at present.

Consular Bureau
JUL 5 1902

No. 454

Consulate-General of the United States,

Shanghai, June 4th, 1902, 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm the following telegram of June 3rd. "Secstate, washington. Doctor orders two weeks Japan. Can arrange here satisfactorily. Wire permission. Goodnow".

and your reply dated June 3rd, received here June 4th. "Goodnow, Consul General, Shanghai. Permission to leave granted. Hill"

After I sent you my telegram and received your reply, the Shanghai Taotai came to see me and asked me not to leave for a few days as important matters concerning the Conservancy Board are liable to come up within two or three days. He hopes that the Viceroy will be induced to appoint the representative of the Chinese Government on that Board., this week or next; and he asked me to keep where they can consult with me. Under these circumstances, I will not take the leave until that matter is settled.

Thanking you for your kind permission, of which I will avail myself as soon as the public business permits,

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 455

Consulate-General of the United States,

Shanghai, June 4th, 1902.

Mr. Goodnow,

To the Department of State.

Subject:

Cholera.

Abstract of Contents.

Twenty cases among foreigners in Shanghai, unknown number of cases among natives in Shanghai and tributary regions.

Montreal, June 4th

No. 455

Consulate-General of the United States,

Shanghai, June 4th, 1902, 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that during the last month there have been about twenty cases of cholera,, cholerine or disease with cholera symptoms among the foreigners of Shanghai. I hear from the Missionary doctors that there are many cases of cholera amongst the natives in the Chinese city of Shanghai, in Soochow, and in the towns tributary to soochow.

It is impossible to get any accurate figures with regard to this matter, especially as it the apparent practice of the local authorities to minimize the prevalence of the disease.

I will keep you posted each mail as well as I can in this matter.

I am, Sir, your obedient servant,

John Gardner
Consul General.

No. 282.

TELEGRAM RECEIVED IN CIPHER.

Secretary of State.
JUN 24 1902

DEPARTMENT OF STATE
RECD.
JUN 7 1902

From Shanghai,

June 7, 1902.

Received 1.55 P. M.

Secretary of State,

Washington.

Commissioner (?)

Leave not taken. British has stopped negotiation of the treaty until fall. Seems favorable time for us to begin. Wire definite instructions important points.

GOODNOW

Deciphered by The Chief Clerk's Office, June 7, 2.54 P. M.

CONSULAR BUREAU
RECD
JUL 1 '02
DEPT. OF STATE

No. 456

Consulate-General of the United States,
Shanghai June 7, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Cholera.

Ackdg. from to Treasy
June July 7/02

Abstract of Contents.

Prevalent in Tangku.
Increasing in Shanghai.

Consular Bureau
JUL 5 1902

No. 456

Consulate-General of the United States,

Shanghai, June 7th, , 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that we were informedyesterday by the Customs here that cholera is epidemic at Tangku. The Russian Consul General also reports that in one ship arriving in Newchwang yesterday from Tangku, thirty cases of cholera were found.

Undoubtedly the cholera is on the increase here.; but we have no statistics of the Chinese population.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Cairo, Egypt, March 7th, 1902.

No. 1.

H. E. D. Peirce,

I have to report that on the 1st instant
by the Khedivian Sanitary Bulletin it was stated
that Mansura Council Medical Officer reported that in one vill-
age in Dakahlieh Province there had occurred
cases of cholera with
deaths from cholera in the Province
Consul General.

CONSULAR BUREAU
RECD.
JUL 10 '02
DEPT. OF STATE

No. 457.

Consulate-General of the United States,

Shanghai June 11 1902. , 190 .

Mr. Goodnow

To the Department of State.

Subject:

Jurisdiction of the Mixed Courts in the International and French Settlements of Shanghai.

Abstract of Contents.

Enclosing proposed rules defining jurisdictions.

Consular Bureau
AUG 7 1902

No. 457

Consulate-General of the United States,

Shanghai, June 11th, , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my number 452 of June 2nd, containing a copy of my 417 to the U. S. Minister at Peking, regarding the contention of the Municipal Council as to the jurisdiction of the Mixed Courts of the two Settlements;- I now beg to enclose you a copy of proposed Rules for defining the respective jurisdictions of the Mixed Courts of the International and French Settlements. These Rules were adopted unanimously yesterday by the Consular Body, and, as Senior Consul, I am sending them to-day to Peking asking for the approval of the Diplomatic Body.

While these Rules are not all that the Municipal Council of the International Settlement desired to get, yet, I am told, the Council is satisfied with them, being convinced that they are all that can be obtained without serious friction without the French Settlement.

I am, Sir, your obedient servant,

Wm Goodnow

Consul General.

Copy.

Provisional Rules for defining the respective jurisdictio of the Mixed Courts of the International and French Settlements adopted by the Consular Body for reference to the Diplomatic Body at Peking.

1. In all Civil cases between Chinese the Plaintiff will follow the defendant, and will sue him before the Mixed Court of his, the defendant's, residence.

2. In all criminal cases where foreigners are not concerned and all Police cases against Chinese residents in the Settlements the Mixed Court of the Settlement, in which the crime or contravention has been committed, is alone competent.

N. B. The above two clauses include cases where the defendant or accused is in the employ of a foreigner, the countersignature of the Consular representative of the Nationality concerned being as heretofore to be obtained.

3. In Mixed Civil cases.

a. If the Plaintiff is a foreigner- not of French Nationality- and the Chinese defendant is a resident of the International Settlement, he is to be sued before the Mixed Court of the International Settlement.

b. If the Plaintiff is French and the Chinese Defendant is a resident of the French Settlement he is to be sued before the Mixed Court of the French Settlement.

c. If the plaintiff is a foreigner-not of French Nationality- and the Chinese defendant is a resident of the French Settlement, the latter shall be sued before the Mixed Court of the International Settlement whose warrant or summons for his appearance after countersignature by the French Consul General will be executed or served by the runners of the International Mixed Court with the assistance of the Police of the French Settlement without previous hearing in the Mixed Court of the French Settlements.

If the Plaintiff is French and the Chinese defendant is a resident of the International Settlement, the latter shall be sued before the Mixed Court of the French Settlement whose warrant or summons for his appearance agter counter-singature by the Senior Consul will be executed or served by the runners of the French Mixed Court with the assistance of the Police of the International Settlement without previous hearing in the Mixed Court of the International Settlement.

4. In criminal cases where a foreigner not of French Nationality is complainant, the Mixed Court of the International Settlement is competent; if a Frenchman is the complainant, the Mixed Court of the French Settlement is competent.

The provisions under clause 3, c and d, as to executing warrants also apply under this clause.

CONSULAR BUREAU
RECD
JUL 19 '02
DEPT OF STATE

No. 757 Cis

Consulate-General of the United States,

Shanghai June 17, 1902.

Mr. Goodnow

To the Department of State.

Ans July 21/02
Cert. copies rec'd

Subject:

Death of Spanish Consul.

Abstract of Contents.

Died of cholera -
Cy. of funeral enclosed

Consular Bureau.
JUL 19 1902

No. 457. bis

Consulate-General of the United States,

Shanghai June 17 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to inform you of the death from cholera of the Spanish Consul at this Port, Senor de Aparicio. He was taken ill on the morning of June 13th and died June 15th . He was a man highly esteemed by his Colleagues and by the Community.

I am, Sir, your obedient servant,

Wm Woodrow

Consul General.

2 enclosures.

Shanghai June 17 1903.

R. H. D. Peirce,

I have to inform you of the death from cholera of the
Spanish Consul at this Port, Senor de Aparicio.
He was taken ill on the morning of June 16th and died
June 17th. He was a man highly esteemed by his
colleagues and by the Community.

I am, Sir, Your obedient servant,

Con sul General.

Duplicate Enclosure in #457 - Shanghai -

FUNERAL OF THE SPANISH CONSUL.

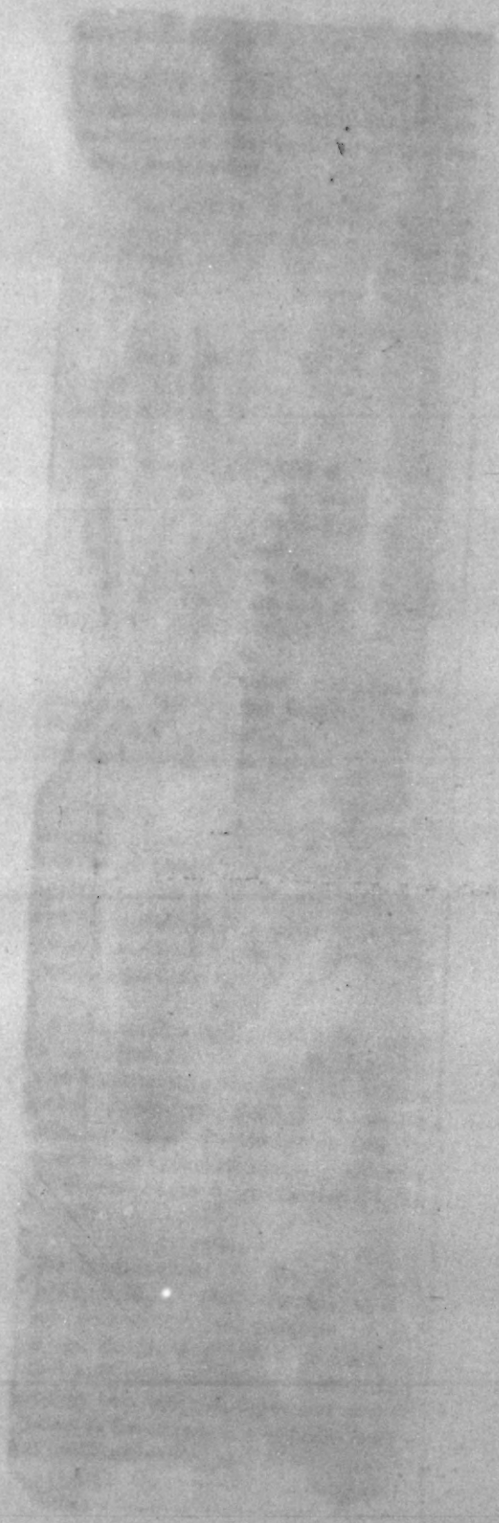
The funeral of Mr. E. de Aparicio, the Spanish Consul, whose death occurred on Sunday night from the effect of cholera, took place with impressive ceremonial yesterday afternoon. The whole of the Consular Body was present at the funeral choral service, held in St. Joseph's Church, French Concession, the officiating clergy being the Right Rev. Bishop Paris, assisted by the Revs. F. A. Colombel and M. Kennelly. The Church was specially draped, which added greatly to the solemn strains of the funeral prelude played, with accustomed finish, by the band of the 2nd E. Asiatic Regiment of the German Army, who were placed in a chamber adjoining the organ loft.

During the service the "Responsorium were sung in plain chant by the choir, and at the close of the service, as the cortège left the building, followed by the chief mourners, Senior Consul J. Goodnow and the Belgian Consul D. Siffert; and the whole of the Consular Body, who were in full official dress; W. G. Bayne, P. Brunat, H. E. Hobson, C. J. Dudgeon, E. T. J. Blount, B. A. Clarke and many well-known and influential foreign residents, "In Paradisum" was well sung by the choir with organ accompaniment.

The sad procession, escorted by the band, wended its way slowly up the Rue du Consulat to the French Cemetery, where the last rites were performed by the Rev. F. Lorando, and the body was committed to the earth in the presence of a large concourse of people gathered by silent consent to pay a last tribute of respect to the memory of their fellow citizen. The wreaths were many and beautiful.

There will be a Requiem Mass at 7.30 a.m. on Thursday at St. Joseph's.

At a meeting of the Consuls this morning a vote of condolence was passed in sympathy with the relatives of their brother Consul which was wired to the Spanish Chargé d'Affaires at Peking.



Enclosure in #457 - Shanghai

FUNERAL OF THE SPANISH CONSUL.

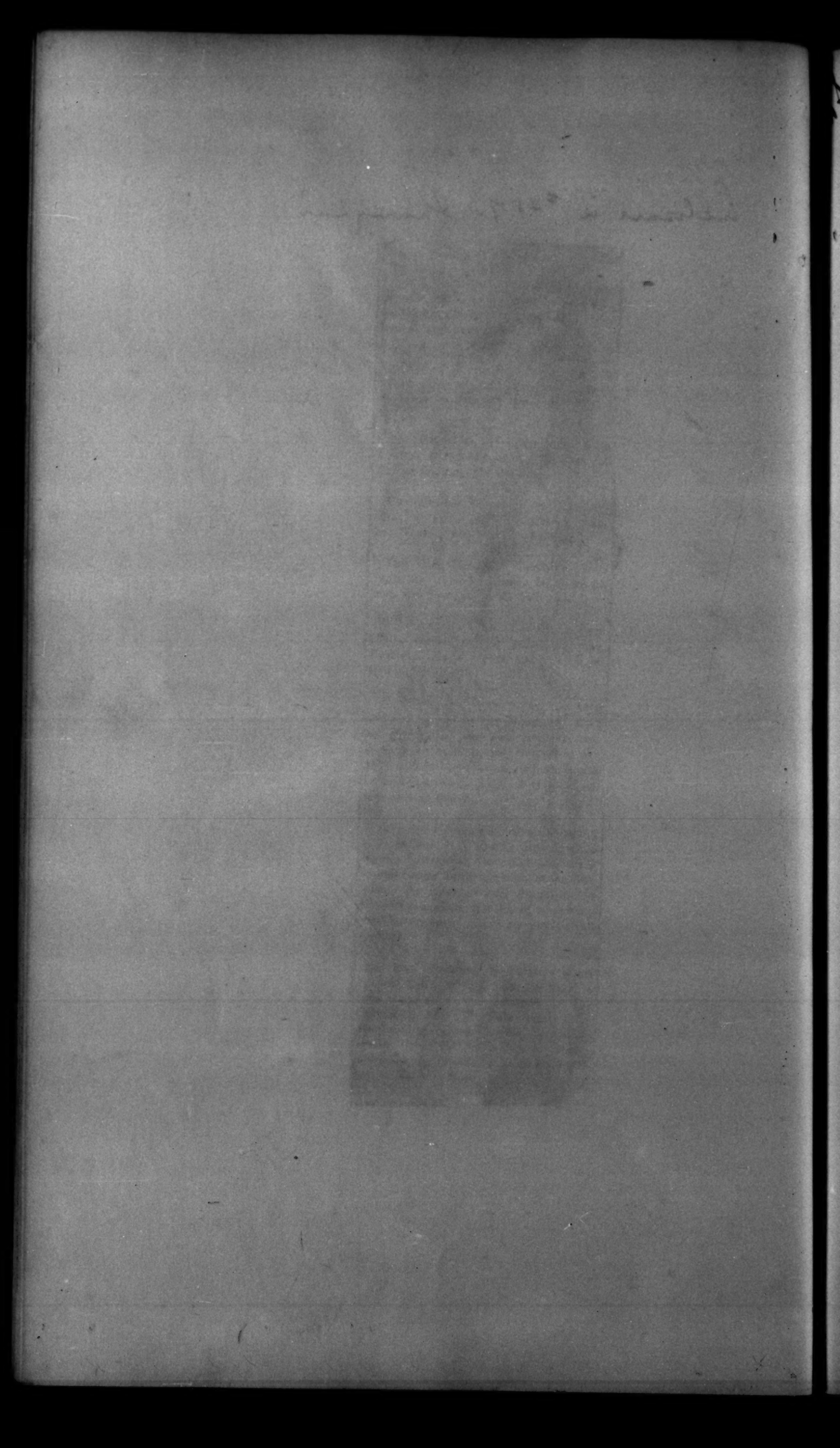
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Consular
DIPLOMATIC BUREAU.

...MATIC,
...1902.
BUREAU.

DEPT OF STATE
JUL
21
1902
2ND ASST SECRETARY

Ack. & file.
[of course no modification of the protocol can be made without being proposed to the Powers and considered by them. Mr. Goodnow's letter also gives right view of this.]

No. 458

Consulate-General of the United States,
Shanghai, June 18th, 1902.

Mr. Goodnow,

To the Department of State.

Ack by phone July 23/02

Subject:

Conservancy Board.

Abstract of Contents.

Enclosing duplicate my 428 and 430 confidential. & 431

to Peking

Consular Bureau.
JUL 19 1902

No. 458

Consulate-General of the United States,

Shanghai, June 18th , 1906.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith duplicates of My No. 428 and 430 & 431 confidential to Hon. E. H. Conger, E. E. & M. P., U. S. A. Peking, with regard to the Conservancy Board. They explain themselves.

I am, Sir,

Your obedient servant,

Consul General.

(2 encs.)

No. 428. Confidential.

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, June 13th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

Some time since, The Consular Body sent to the Diplomatic Body at Peking a letter from the Viceroy at Nanking regarding the Conservancy Board provided for in Annex 17 to the final Peace protocol. I have heard nothing of what, if any, action has been taken by the Ministers in this matter.

Since that time I have not lessened my efforts to get the Viceroy to appoint the representative of the Chinese Government on that Board. As I told you in my numer 402 of April 5th, I have no doubt but that the British Consul in Nanking has been largely instrumental, by his advice to the Viceroy, in delaying the Viceroy's action.

Some time since the Viceroy asked H. E. Sheng to name some one connected with the China Merchants S. N. Co., as the representative of the Government on the Board. The suggestion of Mr. Chun Oi-ting was not satisfactory to the Viceroy. Then Mr. Bredon suggested to H. E. Sheng that the Viceroy should appoint him, (Mr. Bredon,) as the representative of the Chinese Government, with the condition that Mr. Bredon should be chairman of the Board. When Mr. Mansfield took over charge of the British Consulate General here, he went to Nanking "to pay his formal respects to the Viceroy". At that interview, I have it from perfectly reliable sources, Mr. Mansfield urged Mr. Bredon's appointment upon the Viceroy.

CONSULATE GENERAL OF THE UNITED STATES

OF AMERICA

The Viceroy said that he objected to the Protocol Annex on several grounds.

1.- It should not include the improvement of the River above the southerly limit of the French Settlement.

2.- It should not include the control of the creeks emptying into the Whangpoo.

3.- It should not include the control of the Police, lighting, etc., by the Board.

4.- It should not inflict a tax on farming land belonging to Chinese and bordering on the river.

5.- Chinese junks should not be taxed. (They are not taxed by the Annex)

Mr. Mansfield, I am told, assured the Viceroy, that, if he would appoint Mr. Bredon and thus give the Charimanship of the Board to the British, these points would be conceded to him.

The Viceroy informed the Taotai of this matter and the Taotai came to see me. I told him (under your instructions) that I could not discuss any variations of the terms of the Annex; as the Protocol and the Annexes are of the nature of a Treaty. I told him that any one promising concessions from the terms of the Annex could not carry out the promises without the consent of all the nations signing the protocol. I assured him, however, that the representative of the United States on the Board would do all in his Power to carry out the provisions of the Annex ina spirit of entire friendliness to China.

Mr. Bredon was inganking Sunday, June 8th, when the Viceroy listened to him but gave him no definite promises. In the meantime, the German Consul general has wired the

Viceroy that, if any foreigner from the Customs is to be selected, he should be a German. This argument is based on the fact that Germany only has one representative among the 16 members of the Board.

I am urging the apointment of the 16th member, regardless of whom he may be, and the beginning of the work. At the same time I can see the justice of the claim of the Germans and I can see the inexpediency of the appointment of of Mr. Bredon with the promise of variation of the terms of the Annex. I gravely question the advisability of the election of any employee of the Chinese Government as Chairman of the Board. All the Consuls on the Board are in perfect harmony; and are not tied up to any plan or scheme, but only that the best and cheapest plan offered shall be adopted.

I write you the above for your information,

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 430 Confidential

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI, June 18th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

Referring to my No. 428 of June 13th with regard to the organization of the Conservancy Board, I have to say that I was approached yesterday by H. B. Sheng in the matter, and was asked if the Consuls could agree to the five changes in the Protocol enumerated in my 428 and which, he said, had been agreed to by Mr. Bredon. I answered that the Consuls had no power to vary a singular particular of the Protocol; that that could be done only by the agreement of all Nations signatory thereto; but that the provisions of the Protocol would be carried out in a just and friendly way to the Chinese. Beyond this I declined to go. What action the Voceroy at Nanking will take under this, I do not know.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 431 confidential

CONSULATE-GENERAL OF THE UNITED STATES

OF AMERICA.

SHANGHAI June 13th, 1902 189 .

HON. E. H. CONGER,

E. E., AND M. P., U. S. A.

PEKING.

SIR:—

Referring to my #428 of June 13th and No. 430 of June 18 regarding the Conservancy Board, I have to report that the Taotai came to see me yesterday to say that the Viceroy had decided that he would make an appointment of whomever the Taotai and H. E. Sheng agreed upon. The Taotai said that they had practically agreed and would send their recommendation to the Viceroy this week. He did not give me the name of the one recommended, but gave me to understand that it was a Chinese. I preferred not to know the name at present.

It again looks to me that the appointment will be soon made and the organization proceeded with. The Consuls are urging this in every possible way as the thing has now been delayed so long.

Yet we see the impossibility of the work going on without the concurrence of the Viceroy who contributes half the money. Until he has made his app ointment of the representative of the Chinese Government, the Taotai and the Commissioner of Customs can not sit on the Board.

I have to confirm my telegram of this date, "Taotai assures me that Conservancy Board appointment will soon be made. He and Sheng agree on a recommendation."

I am, Sir,

Your obedient servant,

John Goodnow

C.G.

CONSULAR BUREAU.

CONSULAR BUREAU. RECD. JUL 21 1902 DEPT. OF STATE

No. 459

3rd. ASST. SECRETARY. JUL 22 1902

Consulate-General of the United States,

Shanghai June 24, 1902.

Mr. Goodnow

To the Department of State.

Ans July 24/02
Regret we cannot make the allowance

Subject:

Death of George Ah-Kum, messenger.

Abstract of Contents.

Asks to give widow $50-

Consular Bureau JUL 22 1902

No. 459

Consulate-General of the United States,

Shanghai, June 24th, 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to inform you of the death of George Ah-koon, Messenger at this Consulate, for the past thirty-six years. George left the office on the night of June 19th, apparently in perfect health. He was taken sick in the night with cholera and died on June 20th.

For many years he was a faithful servent of the United States under the different Consuls General. The fact that he had been here so many years has been often brought up to me by Chinese officials as an evidence that the Americans are good to their servants.

I would respectfully ask to be allowed to present $50.00 to his surviving widow who is sixty seven years of age and to whom he has been married forty-four years. I think that this would be proper at the end of such long service.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

INDEX BUREAU
RECD.
JUL 21 1902
DEPT. OF STATE

No. 460

Consulate-General of the United States,

Shanghai June 24, 1902.

Mr. Wordsworth.

To the Department of State.

Ack'd by prompt to Treasury July 23-1902 Deans

Subject:

Cholera in Shanghai.

Abstract of Contents.

200 to 300 Chinese dying daily
2 to 4 foreigners "

Consular Bureau
JUL 22 1902

No. 460

Consulate-General of the United States,

Shanghai, June 24th, 1910.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm the following telegram of June 17th,

"Secstate, Washington. Cholera increasing here. About thirty foreign cases, unknown but large number of natives dying daily. Goodnow"

During the week ending June 15th the Municipal physician reported 150 deaths from diarrhea among natives. During the week ending June 27th he reports 181 deaths of natives from cholera, dysentery, and diarrhea.

I am unable to believe these figures to be correct. During the week ending June 15th, the Ningpo Guild, of 50,000 members, buried 225 people, who were too poor to buy their own coffins, members of that guild. During the week past they have buried . The authorities of the Guild say that these cases are all from cholera.

Hangchow, Soochow, Wusieh, Changchow, Kiangyin, and Chinkiang are suffering from cholera worse than is Shanghai; and yet, from the figures of the Guild given above, I am forced to believe that from 200 to 300 Chinese are dying daily from cholera. The foreign physicians say, that 2 to 4 foreigners are dying daily.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Shanghai, June 20th, 1908

R. H. D. Peirce,

I have to confirm the following telegram of June 17th.

"Secretary, Washington. Cholera increasing here, About thirty foreign deaths, unknown but large number of natives dying daily. Goodnow."

During the week ending June 13th the Municipal physician reported 130 deaths from diarrhoea among natives. During the week ending June 27th he reports 181 deaths of natives from cholera, dysentery, and diarrhoea.

I am unable to believe these figures to be correct. During the week ending June 13th, the Ningpo Guild, of 10,000 members, buried 700 people, who were too poor to pay their own coffins, members of that guild. During the week just ended have buried . The

authorities of the Guild say that these cases are all from cholera.

Foochow, Wuchu, Chinkiang, Kiukiang, and Hankow are suffering from cholera worse than in Shanghai and Jan, from the figures of the Guild given above, I am forced to believe that from 500 to 1000 persons are dying daily from cholera. The foreign physicians here state that only a few foreigners are dying daily.

I am, Sir, your obedient servant,

Conf D.

Seen wse

TELEGRAM RECEIVED IN CIPHER.



From SHANGHAI,

Received June 30, 1902.

11:12 p. m.

Secretary of State,

Washington.

Viceroys Nankin, Wuchang, Szeyuan ask me telegraph petitioning you to continue urging payment indemnity silver basis. ch

G O O D N O W.

Deciphered by Miss Greer, C.C's Office, July 1, 1902.

TELEGRAM RECEIVED IN CIPHER

2

CONSULAR BUREAU
RECD.
AUG 5 '02
DEPT. OF STATE

3rd. ASST. SECRETARY.
AUG 7 1902

No. 461

Consulate-General of the United States,
Shanghai July 2, 1902.

Mr. Goodnow

To the Department of State.

Cannot be allowed at present
Aus Aug 11/02

Subject:
Home allowance

Abstract of Contents.

Recommending allowance to all Consuls.

Consular Bureau
AUG 8 1902

No. 461

Consulate-General of the United States,

Shanghai, July 2nd, , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

In transmitting herewith Consul Miller's No. 128 of June 26th requesting an allowance of $250.00 for travelling expenses in his district during the fiscal year ending June 30th, 1903, I beg to recommend not only that the request therein be granted but also that an allowance equally large be made to each of the Consuls in China. I think that I am within bounds in saying that almost every Consul in China has paid that amount out of his private pocket during the past year in travelling within his district. Each district has within its borders several large cities where Americans are located. To keep within touch with his Nationals and with the situation in the several places, the Consul often is obliged to visit these different cities.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 461

Consulate-General of the United States,

Shanghai, July 2nd, , 1903.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

In transmitting herewith Consul Miller's No. 128 of June 26th requesting an allowance of $250.00 for travelling expenses in his district during the fiscal year ending June 30th, 1903, I beg to recommend not only that the request therein be granted but also that an allowance equally large be made to each of the Consuls in China. I think that I am within bounds in saying that al~~l~~-most every Consul in China has paid that amo~~u~~nt out of his private pocket during the past year in travelling within his district. Each district has within its borders several large cities where Americans are located. To keep ~~with~~in touch with his Nationals and with the situation in the several places, the Consul often is obliged to visit these different cities.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU
RECD AUG 5 1902 DEPT OF STATE
DEPT OF STATE AUG 9 1902 2ND ASST SECRETARY
3rd. ASST. SECRETARY. AUG 7 1902

Ack, quoting Secy's 213 of last of Jan 31. 1881. [Supp. Rev. Stats, vol. 2. page 140.]

No. 461

Consulate-General of the United States,

Shanghai July 5, 1902.

Mr. Gresham.

To the Department of State.

Subject: Proffered decoration. Ans Aug 11/02 506 Asiatic March 1902

File

Abstract of Contents.

Enclosing letter of Sheng Kung-pao

To House & Senate Committees Dec 9'03

INDEX BUREAU DEC 12 1903 FILED
Consular Bureau AUG 8

No. 462.

Consulate-General of the United States,

Shanghai July 5 1902. , 190 .

Honorable H. H. D. Peirce

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith for such action as you deem proper a letter from H. E. Sheng Kung-pao stating that the Chinese Government offers me, with the other Consular Representatives in Shanghai in 1900, the Order of the Double Dragon, for our efforts toward maintaining the peace at that time.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 1.

Consular Post 3 1900.

H. M. S. Petrel

I have the honour to [illegible] as per date copies
a letter from Mr. Sheng Kung-pao stating that the
Chinese Government wishes me, with the other
Consular Representatives in Shanghai in 1900, the
Order of the Double Dragon, for our efforts towards
maintaining the peace at that time.

I am, &c.,

Your obedient servant,

[illegible]

Consul General.

June 29th, 1902

To John Goodnow, Esq.
Senior Consul.

Sir:

I beg to inform you that I have received a dispatch from H. E. Liu, Viceroy of the Liang Kiang, in which he says:-

"The year before last there were sudden and unexpected hostilities. The Consuls from the different Countries in Shanghai amicably arranged for the general protection from which all derived benefit. I besought the Emperor to graciously bestow decorations upon them in grateful recognition of the trouble they took in the matter. On the 9th day of the the 3rd Moon of the 28th year of Kuanghsu, Your Excellency, Chang,, Viceroy of the Hu-luang Province and myself con-jointly prepared a memorial and sent it up by a special messenger. As soon as the Imperial rescript has been received, I will send you a copy. I now send you copies of the Memorial to which I shall thank you to affix your seal and return one to me to be placed on record- the other keep yourself."

While I was attending to this, I received another communication from the Viceroy Liu, as follows;-

"On the 9th day of the 3rd Moon of the 28th year of Kuanghsu, I, in conjunction with your Exeeelency and Viceroy Chang, of the Hu-Kuang provinces, memorialized the Emperor (and sent the memorial by a special messenger) to graciously bestow decorations upon the Consulsof the various Nations at Shanghai, who, during the sudden and unexpected hostilities of the year before last, amicably arranged protection to the common advanaage to all. I prepared a copy of this memorial and sent it to you. This is a matter of record. On the 28th day of the 4th Moon of the present year the Messenger sent to the Capitol returned with a rescript from the Emperor granting our memorial and instructing the Board of Foreign Affairs accordingly. A list of those to be decorated was also sent. I reverently copied the Imperial reply for you, and at the same time wrote the Shanghai Taotai instructing him to have the decorations made; and when they are completed to send them to Your Excellency. I therefore respectfully write you this communication, and beg you to reverently attend to the matter."

I have copied the memorial and send it to you, as senior Consul, with the request that you inform all the Consuls interested.

(signed) Shang.

A memorial beseeching the Emperor to graciously bestow decorations upon the Consuls of the various Powers at Shanghai as a grateful recognition of their services in maintaining order to the common weal during the disturbances of 1900;-

"During the 26th year of Kuanghsu, the Boxers created disturbances in the North; and suddenly provoked hostilities. Peking and Tientsin took stringent measures for defense. The South Eastern part of the Empire because of this was deeply stirred. The roughs who had been in concealment were about to arise and disturbances were every where imminent. Foriegners and Chinese alike were in a panic and ready to flee; every night there were many alarms. The different Countries sent men of war and soldiers to protect, they daid, the Churches and the merchants, and they were stationed at diffenernt parts. It was a time of terror and mutual suspicion. Everywhere sedition prevailed. It was impossible to do anything to relave the situation. At this time we received an Imperial decree requiring and ordering the Generals, Governors and Viceroys of all the Provinces to seize the opportunity and exercise their authority to protect the districts under their control. We wrote and telegraphed back and forth to devise some plan for mutual protection. I, in conjunction with the former Customs Taotai, Yu Lien Yuen, thought out a satisfactory scheme to accomplish this end. Because they were cut off from communication from their Ministers, the various Consuls telegrpahed to their respective Foreign Offices and they were given Power by their Governments to act in the emergency. We had a number of meeting and entered into a compact by which the foreign settlements of Shanghai were left to the protection of the Consuls; The Yangtse valley, Soochow, Chekiang, and other interior places were to be protected by the Viceroys of the various provinces and there was to be no intefference e ach with the other. The protection of the lives and property of both foreigners and Chinese was the important matter. At each of the Coast or River Ports one or two foreign gun boats were stationed to relieve the anxiety of the fo réign residents. The Men-of-war were not to anchor or go near to any arsenal or fort. This agreement was strictly adhered to.

We made satisfactory and secure provisions for every emergency. Everything was one quietly and the first disturbance of the orderly element was at once suppressedIn Our intercourse there were mutual concessions, and everything was done in the most friendly spirit upon the part of all the Consuls. There was the utmost confidence and freedom from suspicion; and, during all these months there was not the least friction.

After the trouble when we thought of the past, it was really astonishing.

We have received richly from the Imperial favor, and only did our duty. The Consuls all, from first to last, co-operated to the extent of their Power, and it was only thus that calamity was averted. Truly they exerted themselves to the utmost in the common weal.

We have appended hereto a list of the Consuls together with their respective ranks and reverently present it for your gracious inspection. We beseech you to say whether or no by Your Divine Grace they may be decorated as we suggest in recognition of their services. We have sent in addition to the memorial a dispatch to the Office of Foreign Affairs. We unitedly and reverently present this to the Empress Dowager and the Emperor and pray that it may receive Your Imperial glance and approval

L I S T.

The following seven Consuls General are to receive the 3rd class of the 2nd order of Pao-hsing ("The Double Dragon")

1- J. M. T. Valdez, Consul General for Portugal and senior Consul.
2- P. Warren, Consul general for Great Britain.
3- W. Knappe, Consul General for Germany.
4- Compte de Bezaure, Consul General for France.
5- John Goodnow, Consul General for the United States.
6- N. Laptew, Consul General for Russia.
7- M. Odagiri, Consul General for Japan.

The following seven consuls to receive the 1st Class of the 3rd Order of Pao-hsing (Double Dragon):-

1- J. E. Pisko, Consul for Austria.
2- Chevalier E. Ghisi, Consul for Italy.
3- E. Aparicio, Consul for spain.
4- E. D. Vanwalree, Consul for Netherlands.
5.- F. Hagberg, Consul for Norway and sweden.
6. Captain A. Leigh-Smith, Consul for Denlark.
7- D. de Snick, Acting Consul for Belgium.

File

SOLICITOR'S OFFICE
AUG 8 1902

3rd. ASST. SECRETARY.
AUG 7 1902

No. 463.

Consulate-General of the United States,

Shanghai July 5, 1902.

Mr. Goodnow

To the Department of State.

Subject:

sterling

Abstract of Contents.

Meade & Lorme sentenced one month -

Consular Bureau
AUG 8 1902

No. 463.

Consulate-General of the United States,

Shanghai July 5 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that on June 27 1902, an American woman called Meade DeLorme (true name unknown) was charged eith stealing a watch fron Alexander Stewart. The watch was found in the woman's possession and she pleaded guilty.

As the woman is a prostitute and got the watch during a debauch with the man, I only sentenced her to 30 days imprisonment.

I am, Sir, your obedient servant,

Consul General. Wm Woodville

I have to report that on June 27 1909, an American woman called Grace Dellorme (name unknown) was charged with stealing a watch from Alexander Stewart. The watch was found in the woman's possession and was pledged guilty.

As the woman is a prostitute and not the watch during the debates with the man, I only sentenced her to one days imprisonment.

I am, Sir, your obedient servant,

Consul General.

SECRET SERVICE BUREAU RECD AUG 5 1902 DEPT OF STATE

3rd. ASST. SECRETARY. AUG 7 1902

No. 464

Consulate-General of the United States,

Shanghai July 5, 1902.

Mr. Woodward

To the Department of State.

Subject:

Burglary

To Treasury aug 7/02
Copy to Secret Service for information of Com'r of Navigation
Treas aug 15/02

Abstract of Contents.

John Langford and Henry Ward sentenced to 7 years imprisonment.

See Treas letter Aug 15/02

INDEXED SECRET SERVICE BUREAU Consular AUG 8 1902 DEPT OF STATE

No. 464.

Consulate-General of the United States,

Shanghai July 5 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to report that, on July 2nd, the Police brought before me John Langford, Henry Ward, John Dillon, and H. O. Seward, U. S. citizens, chargied with breaking into a house, #98 Bubbling Well Road, and stealing therefrom goods to the value of $1000. The goods were found in the possession of Langford and Ward, except a gold piece which they had ~~stolen~~ sold and which was recovered.

Langford and Ward pleaded guilty. Langford entered the house through an upper window, got the goods, and threw them down to Ward. They two carried them away and sold one article and secreted the rest. Dillon and Ward were friends of the other two; but no guilty knowledge of the burglary was shown. With the concurrence of the Assessors, J. R. Hykes and Murray Warner, I dismissed the case against Dillon and Seward and sentenced John Langford and Henry Ward to serve two years in prison.

These four men came here on the German steamer "Theodore Wille" from Puget Sound. The Master had the option under the articles of paying off in Shanghai. We protested; but the men were paid off, given the remainder of their wages and an order for one month's board. Of course they spent all their money during the month,

Memphis, July 4 1900.

H. H. D. Peters,

I have to report that, on July 2nd, the
Police brought before me John Lunsford, Henry Ward,
John Dillon, and W. O. Howard, U. S. citizens,
charged with breaking into a house, the property Wall
Head, and stealing therefrom goods to the value of
$1000. The goods were found in the possession
of Lunsford and Ward, except a gold plate watch
they had pledged and which was recovered.

Lunsford and Ward pleaded guilty. Dunford
entered the house through an upper window, put the
goods and threw them down to Ward. They two carried
them away and sold one article and secreted the rest.
Dillon and Ward were friends of the other two, but
no guilty knowledge of the burglary was shown. With
the concurrence of the Assistant U. S. Attorney
Turner, I dismissed the case against Dillon and
Howard and sentenced John Lunsford and Henry Ward
to serve two years in prison.

There [illegible] on the Memphis Cemetery
Traction Utility. The Master had the system under
the privilege of paying off in Memphis. He purchased
[illegible] and [illegible] paid off, given the remainder of
[illegible] an order for the monthly [illegible] of
[illegible] they report all their cases during the month.

and at the end of that time with nothing to eat and no place to sleep, and no prospect of employment, they stole. Men should never be allowed to sign such artic les in an American port for this place. They come here at the mercy of a foreigner & there is no possible employment here for laboring men. They must be relieved or steal. I sincerely hope that a way can be found under the law to forbid our Shipping Commissioners signing men on such articles.

I am, Sir, your obedient servant,

John Goodard

Consul General.

CONSULAR BUREAU.
AUG
15
1902
DEPARTMENT OF STATE

No. 465

Consulate-General of the United States,
Shanghai July 9, 1902.

Mr. Goodnow

To the Department of State.

Subject:
Interpreters

Ans Aug 18/02
$5,000 additional asked
for in estimates Dec 1902

Abstract of Contents.
Dr Barchet's purpose to resign if salary not increased. Increase recommended.

Consular Bureau.
AUG16 1902

No. 465

Consulate-General of the United States,

Shanghai, July 9th, 1902 , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I would respectfully call your attention to the following quotation from a letter I have just received from Dr. Barchet, the Interpreter of this Consulate, now acting in peking.

"I may yet see it necessary to send in my resignation; which I purpose doing if the Department of State does not soon pay some attention to the moderate requests I made some months ago to increase the Interpreter,s allowance and enable me to live in Shanghai."

Should Dr Barchet resign I have not the faintest idea where I could get an Interpreter who would work for the salary. It is impossible for us to think of using a Chinese as Interpreter here. No Chinese should be an Interpreter in and for an American Consulate in China. The employment of such hurts our dignity and influence, and casts suspicion on the Consulat in its business dealings. In Shanghai our Interpreter sits in the Mixed Court as an Assessor two days in each week; and has charge there not only of American interests but also of the interests of the Community of the whole in cases brought there during those two days of the week.

A man who can do the work here satisfactorily should be paid $3000.00 U. S. Gold per year, the salary paid the Chinese Secretary in Peking. Besides his Interpretation work, he must have the qualifications necessary to act as an Assessor in this very important Mixed Court. It is increasingly expensive to live in Shanghai. Rent, servants, provisions, all cost 50% more than they did five years ago. The garrisons now located here have added greatly to this increased expense. The increasing trade of the town and the rapid influx of foreigners are also factors. Servants must be paid more wages as they feed themselves and their supplies have gone up in price. In 1897 Rice cost Mex. $2.80 per picul. (133 1/3)lbs) It has been this Spring Mex. $9.20 per picul. Other foods have also increased in price, although not in such great proportion.

Such a man as Dr. Barchet can easily obtain 300 to 400 Tls. per month if he desires to go into the employment of Chinese.

I most earnestly call your attention to the importance of this matter. I not only speak for the Interpreter in Shanghai at the present moment, but for the necessity of training Interpreters for the future.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

RECEIVED AUG 11 1902 DEPT OF STATE

No. 469

Consulate-General of the United States,

Shanghai, July 18th, , 1902.

Mr. Goodnow,

To the Department of State.

Subject: Ans to Instruct To F. & D. Co. of Md. Aug 15/02 Copy to company

re Mr A. H. White's Bond.

Fidelity & Deposit Co of Md.

Abstract of Contents.

Has already paid premiums demanded.

No. 469

Consulate-General of the United States,

July 18th, 1902 , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your No. 320 of June 9th, 1902 transmitting a copy of a letter from the Fidelity and Deposit Co. of Baltimore in regard to premiums due that company on the bond of Deputy Consul General White.

Mr. White has sent, before the receipt of this dispatch, the premiums the company claims. Mr. White tells me that he has not received any bill from the company until within the past four weeks, and that he remitted promptly on receipt of the bill.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

RECD. AUG 11 1902 DEPT. OF STATE

No. 470

Consulate-General of the United States,

Shanghai, July 18th, 1902

Mr. Goodnow,

To the Department of State.

ack by post Aug 14/02

Subject:

Dr. H. G. C. Hallock.

Abstract of Contents.

Reasons for recommending his recall.

Consular Bureau. AUG13 1902

No. 470

Consulate-General of the United States,

Shanghai, July 18th, 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your No. 322 of June 11th with regard to my recommendation to the Presbyterian Board of Foreign Missions to recall Dr. Hallock.

The recommendation was made after consultation with Mr. Conger and careful thought on the subject. The Chinese asked only that he should be removed from that region. They have expressed themselves to me as much pleased with the recommendation I have made. It is in reality a severe punishment to Dr. Hallock should he be recalled home, as it ruins his career and he is only a young man. I hope that, taking these things into consideration, you will approve my recommendation.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

No. 471.

CONSULAR BUREAU.
NOTED.

Consulate-General of the United States,

Shanghai, July 18th, 1902.

Mr. Goodnow,

To the Department of State.

Subject:

re John Strong, deceased.

Rec'd from Dept of State Aug 15/02

Mrs J. F. Kang

Abstract of Contents.

Reply to the Department's No. 307.

Consular Bureau.
AUG 13 1902

Mrs J. F. Kang



No. 471

Consulate-General of the United States,

Shanghai, July 18th, , 190 .2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Replying to your 307 of March 10th instructing me to make inquiries in regard to the career of Mr. John Strong, deceased, I have to report that Mr. Strong was in the I. M. Customs for about fourteen years prior to 1897. He was appointed Marshall of the U. S. Consulate at Tientsin on January 1st, 1897 and served until the end of that year. He was store keeper at Tongshan for the Imperial Railway of North China from Jan. 1st, 1898, until June 1900. He was employed at Tongku by the military Railway Administration for some months thereafter. From Tongku he returned to his old position at Tongshan . His health having failed, he went to Japan and came from there to Shanghai. He was here about two months before he went into the hospital where he died. He left a Will leaving his property to be sent to Margaret Karg and her husband Joseph F. Karg of Brooklyn, New York. The Administrator, C. R. Bennett, Esq. of Mustard & Co., has made his final report and has transmitted the property to Mr. and Mrs. Karg, who, under the Will, are to hold the property in Trust for their children. I have sent the information herein contained to Mr. Karg.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU
RECD
AUG 11 1902
DEPT OF STATE

No. 472.

Consulate-General of the United States,

Shanghai July 18 1902. , 190 .

Mr. Goodnow

To the Department of State.

Rec'd Aug 14/02

Subject:

Reported trial by Deputy Consul General.

Abstract of Contents.

Reply to Dep'ts #321.

Consular Bureau.
AUG13 1902

No. 472

Consulate-General of the United States,

Shanghai, July 18th 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Replying to your No. 321 I have to report that, nothwithstanding the previous custom in this Consulate, I have never allowed a case to be tried by any one but myself when I am in Shanghai.

The facts of the trial reported in the North China Daily News of May 5th, 1902, as being before Deputy Consul General White, are as follows:- I was sick in bed that day with a slight attack of dysentery. The two men were brought in who had overstayed their leave from a ship in the harbour and had been drunk and disorderly and fighting. There was no dispute as to the facts. Mr. white heardthe story; came to my bed room and told me of it; and I told him what sentence to give in the case. You will see that I really tried the case. I noticed that the news paper reported Mr. White as trying the case; but did not think it worth while to correct it.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Shanghai. 26"

DEPARTMENT OF STATE
JUL 25 3.43 PM 1902
CHIEF CLERK'S OFFICE

TELEGRAM RECEIVED.

4 wu

From Peterzburg
July 25, 1902.

Received 5-25 P M.

Sec State,

Washn.

9.40 a.m. received July 26. 1902

Drake took charge Saturn Newchwang Case hired Attorney began proceedings British Court order Admiral Evans reported SecNav June 27 trial set Aug 17" Goodnow

MAIL & BUREAU
RECD.
AUG 25 1902
DEPT. OF STATE

No. 473

Consulate-General of the United States,

Shanghai July 25, 1902.

Hon. Gowdy

To the Department of State.

Subject:

Collision Datum-Nevchwang

Copy to Atty Gen Aug 28 1902

Abstract of Contents.

Confirming telegram.

Consular Bureau
AUG 27 1902

No. 473

Consulate-General of the United States,

Shanghai, July 25th , 1902.

Honorable D. J. Hill,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm your telegram of July 23rd as follows:

"Goodnow, Shanghai. Attorney General's letter May 31 collision Newchwang Saturn. Confer with Drake Commanding Monterey. Cable as to whether Attorney has been employed and what action taken. If no Attorney employed cable reply to above letter as to employment of Attorney. (signed) Hill."

I at once saw Captain Drake and received from him the information which I embodied in my telegram of this date, which is confirmed as follows:

"Secstate, Washington. Drake took charge Saturn Newchwang case. Hired Attorney. Begun proceedings British Court, Order Admiral Evans. Reported SecNav June 27th. Trial set August 17th. (signed) Goodnow."

In this connection I beg to call your attention to my letter of July 8th to the Attorney General replying to his letter of May 31st.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Shanghai, July 25th 1928

D. J. Hill,

I have to confirm your telegram of July 23rd as follows:

"Consulate Shanghai. Attorney General's letter July 21 collision Kewshwang Saturn. Confer with Drake Commanding Monterey. Cable as to whether Attorney has been employed and what action taken. If no Attorney employed cable reply to above letter as to employment of Attorney. (signed) Hill."

I at once saw Captain Drake and received from him the information which I embodied in my telegram of this date, which is confirmed as follows:

"Consulate, Washington. Drake took charge Saturn Kewshwang case. Hired Attorney. Began proceedings British court, Under Admiral Evans. Reported Senior Time 8th. Trial set August 17th. (signed) Consulate."

In this connection I beg to call your attention to my letter of July 6th to the Attorney General replying to his letter of May 23rd.

I am, Sir,

Your obedient servant,

Consul General.

/

RECEIVED
AUG 25 '02
DEPT. OF STATE

No. 474

Consulate-General of the United States,

Shanghai, July 25th, 1902.

Mr. Goodnow,

To the Department of State.

Subject:

John Strong, deceased.

File

Abstract of Contents.

Replying to Department's No. 219

Estate closed.

Information sent Karg.

Administrator as sppedy as possible.

Consular Bureau.
AUG27 1902

John Doe, deceased.

Case No. 210

Estate closed.

Distribution made (etc.

Administrator as speedy as possible.

No. 474

Consulate-General of the United States,

Shanghai, July 25th, , 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to your despatch of June 3rd, 1902, No. 319 with regard to letter from Mr. J. P. Karg regarding J. P. Strong, deceased, I beg to refer you to my No. 471 of July 18th and to the fact that I enclosed the Administrator(s final account of that estate and pa draft U. S. Gold $5383.94 (Tls. 9571.45) in letter to Margaret Karg and Joseph P. Karg, #56 S. 9th, St. Brooklyn, N. Y. in the same mail in which my No. 471 was sent.

Considering that the estate was in several places in China, and that some of the items were in dispute, I [redacted] that the Administrator wound up the estate as speedily as possible.

I am, Sir,

your obedient servant,

John Goodnow

Consul General.

Referring to your despatch of June 3rd, 1908, No. 319 with regard to letter from T. J. V. Kerr regarding T. P. Strong, deceased, I beg to refer you to my No. 471 of July 15th and to the fact that I enclosed the Administrator's final account of that estate and to direct U. S. Gold $2532.86 (Tls. 8371.43) in Letter to Mortgage Kerr and Joseph T. Kerr, 256 B. 5th, St. Brooklyn, N. Y. in the name next in which my No. 471 was sent.

Considering that the estate was in several places in China, and that some of the items were in dispute, it [illegible] that the Administrator wound up the estate as speedily as possible.

I am, Sir,

Your obedient servant,

RECEIVED AUG 25 1902 DEPT OF STATE

RECEIVED AUG 27 1902 DIV. ACCOUNTS. DEP. OF STATE.

No. 475

Consulate-General of the United States,

Shanghai, July 25th 1902.

Mr. Goodnow,

To the Department of State.

To Mrs. R. J. Brooks
San Francisco
Nov. 21 1902

Subject:

Money claimed by heirs of William Petty.

12. 15.

Abstract of Contents.

Reply to Department's 323.

No information in this Consulate.

Consular Bureau, AUG27 1902

INDEX BUREAU DEC 8 1902 FILED

No. 475

Consulate-General of the United States,

Shanghai, July 25th, 1902

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your No. 313 of June 20th, 1902 enclosing letters from me to R. A. Brooks in regard to a sum of money which she says was to be paid to the widow of William Petty, murdered in Chinese waters in 1864 or 1865.

I can not find anything in the records of this Consulate containing any information concerning this matter.

I think that Hon. George F. Seward, now of New York City, was Consul General here at that time.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

INDEX BUREAU
RECD.
AUG 26 '02
DEPT OF STATE

No. 2

Consulate-General of the United States,

Shanghai July 25, 1902.

Mr. Goodnow

To the Department of State.

Subject:

Messenger. Ans Sept 24/02

Abstract of Contents.

Appointing Tom Yah.

Consular Bureau.
AUG27 1902

INDEX BUREAU
AUG 27 1902
FILED

Thompkins Harbor, NY

Steamboat

Illustration.

Photographic Print Mark.

No. 4

Consulate-General of the United States,

Shanghai, July 25th, , 190 2

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have received your instructions May 21st allowing this office $400.00 for Messenger service for the fiscal year ending June 30th, 1903.

As George Ah Koom died in June I have appointed as messenger Tom Vah. He has been in my employ as Butler for three years and is a very steady and honorable man. He understands the work required; speaks a little English; and has a good presence. I ask your approval of the appointment.

I am, Sir,

your obedient servant,

John Goodnow

Consul General.

Thursday, July 30th, 1903.

H. H. D. Peirce,

I have received your instructions May 21st allowing this office $600.00 for messenger service for the fiscal year ending June 30th, 1903.

As George Ab Koon died in June I have appointed as messenger Tom Van. He has been in my employ as janitor for three years and is a very steady and honorable man. He understands the work required; pleases a little conceit and has a good presence. I ask your approval of the appointment.

I am, sir,

Your obedient servant,

Peter Stevenson

Chief Engineer.

CONSULAR BUREAU.
SEP 19
DEPARTMENT OF STATE

No. 45

RECEIVED
SEP 2 1902

Consulate-General of the United States,

Shanghai July 31st, 1902.

Hon. John Goodnow

To the Department of State.

Recd. by Japan Sept. 6/02.

Subject:

Marriage Certificates.

Abstract of Contents.

CONSULAR BUREAU.
AUG 1902

No. 45

Consulate-General of the United States,

Shanghai, July 31st, 1902.

Honorable A. A. S. Price

Assistant Secretary of State,

Washington, D. C.

Sir:

I have the honor to enclose herewith two marriage Certificates, one of William E. A. Daulett and Ah Se and the other of John R. Trindle and Van Meter.

I have the honor to be

Sir.

Your obedient servant

John Goodnow

U. S. Consul General

Enclosures. 2. as above stated.

CERTIFICATE OF MARRIAGE

Consular Office of the United States of America

SHANGHAI, CHINA July 19 1902

I, A H White deputy Consul-General of the United States at Shanghai, China, do hereby certify that, on this 19th day of July A. D., 1902, at The U.S. Consulate in the city of Shanghai China: William E.H. Faucett, aged 36 years, born in Brooklyn N.Y. and now residing in Shanghai China, and Ah-Se, aged 22 years born in Canton China, and now residing in Shanghai, were United in Marriage before me, and in my presence, by Rev. John R Hykes D.D, who is authorized by the laws of Penn. to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this nineteenth day of July, A. D. 1902, and of the Independence of the United States the 126th

[L. S.]

A H White

deputy Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



CERTIFICATE OF MARRIAGE

BUREAU, D.

Consular Office of the United States of America

SHANGHAI, CHINA July 29 1902

I, John Goodnow Consul-General of the United States at Shanghai, China, do hereby certify that, on this twenty ninth day of July A. D., 1902, at #38-Jinnsan road in the city of Shang Kai; China; John R. Tindle, aged 28 years, born in Van Meter, Iowa and now residing in Nanking China, and Josie Newland, aged 25 years born in Wellman Iowa, and now residing in Shang Kai; China, were United in Marriage before me, and in my presence, by Rev. John R Hykes D.D., who is authorized by the laws of Penn. to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this twenty ninth day of July, A. D. 1902, and of the Independence of the United States the 126th

John Goodnow
Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.



CONSULAR BUREAU





Ask & file.



No. 476.

Consulate-General of the United States,

Shanghai August 1 1902. , 190 .

Mr. Goodnow,

To the Department of State.

Subject:

Emperor's birthday.

Abstract of Contents.

Celebrated in Shanghai for the first time as a public holiday.

No. 476

Consulate-General of the United States,

Shanghai August 1 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

The birthday of the Emperor of China on July 30th was most remarkable as being the first time that such an occasion has been celebrated as a public holiday by merchants. Not only did the Taotai here give an official luncheon to 60 foreign and Chinese offic ials, but there was a large subscription dinner of merchants given at a public garden, and many private dinners were given. The streets during the day were gay with flags, and all the Chinese stores on the principal streets were illuminated at night.

I call your attention to this particularly as showing the growth of a patriotic feeling, which many writers have said is lacking in China. This patriotism has grown with the growth of newspapers in Ch inese and quicker communication hetween the different parts of the Empire. There is no question in my mind but that in a very few years the middle class public opinion in China will be a factor with which we must all reckon as we do in other countr ies.

I am, Sir, your obedient servant,

John Goodnow

C onsul General.

Dr. H. D. Peiros.

DEPARTMENT OF STATE
4 4 00 PM 190
OFF CLERK'S OFFICE
RECEIVED

10

TELEGRAM RECEIVED.

Iowa

From Shanghai

Sept 4, 1902.

Received 3 54 P.M.

Sec State

Washn.

leave granted by telegraph Sept. 5

MacWade sick desires leave visit United States

Godnow

Confirmed Sept. 9. 1902.

Consular Bureau.
SEP 5 1902

CONSULAR BUREAU.
RECD. OCT 14 '02 DEPT OF STATE
3rd. ASST. SECRETARY. OCT 14 1902

No. 477

Consulate-General of the United States,

Shanghai Sept 10, 1902.

Mr. Goodnow

To the Department of State.

Approved Oct 18 '02

Subject:

Absence.

Abstract of Contents.

from Aug 9 to Sept 3d -
Waive of salary from Vice Consul Gen't Hughes

No. 477

Consulate-General of the United States,

Shanghai, Sept. 10th, 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to report that I was taken ill about the first of August and was confined to my bed until August 9th. My physician ordered me to Japan and I took advantage of your leave of fifteen days granted me by telegraph June 4th, 1902 and sailed for Japan on that day (August 9th). I was not sufficiently recovered to return to Shanghai within the fifteen days; but reached here on Sept. 3rd. My total absence was therefore twenty-five days.

I hand you herewith copy of agreement with Vice Consul General Hykes waiving any claim for salary.

I trust that you will approve of my overstay. I was still confined to my bed in Japan when the fifteen days expired.

I am, sir,

Your obedient servant,

Wm Woodville Rockhill

Consul General.

Consulate General of the United States,

Brussels, Sept. [illegible], 1900.

Memorandum No. 3, Personal.

Chevalier Bienvenu de Brie,

Wellington, [illegible].

Sir:

I beg to report that I was taken ill about the first of August and was confined to my bed until August 6th. My physician ordered me to Spa and I took advantage of four leave of fifteen days granted me by telegraph from 6th, 1902 and ending the 19th on that day (August 19th). I was not medically registered to return to Brussels within the fifteen days but reached here on Sept. 3rd. My total absence was therefore twenty-five days.

I have the honour to be, Sir,

Your obedient servant,

[illegible]

Consul General.

CONSULAR SERVICE, U. S. A.

To the Auditor for the State and Other Departments,

Washington, D.C.

I make no claim for any part of the salary of Consul General Goodnow for the time he was absent from Shanghai, from August 9, to September 3, 1902, inclusive.

I have the honor to be,

Sir,

Your obedient servant,

John R Hykes

Vice Consul General.

CONSULAR BUREAU.
RECD OCT 14 '02
DEPT OF STATE
3rd. ASST. SECRETARY.
OCT 14 1902

No. 478

Consulate-General of the United States,

Shanghai Sept 10, 1907.

Mr. Gardner

To the Department of State.

File

Subject:

Consul McWade's leave

Abstract of Contents.

Confirming telegrams.

No. 478

Consulate-General of the United States,

Shanghai, Sept. 10th, 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm my telegram of Sept. 4th,

"Secstate, Washington. McWade sick desires leave visit United States. Goodnow."

and your reply, of Sept. 5th

"American Consul, Shanghai. Leave McWade granted. Adee."

I found on my return several letters and telegrams from Consul McWade asking me to grant him leave to go to the United States on account of his health. As I have no power to grant such leave it seemed the simplest way to wire you direct rather than to wire him to wire you.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Cons'l

RECD OCT 12 1902 DEPT OF STATE

PRINTED IN ADVANCE SHEETS NO. 1481

OCT 17 1902 BUREAU.

No. 479

Consulate-General of the United States,

Shanghai, Sept. 10th, 1902.

Mr. Goodnow,

To the Department of State.

Ackd Oct. 17, 1902. J. J. C

J. J. T. file gpp.

Subject:

Signing of Specific Tariff.

Abstract of Contents.

See No 576 of Apr 30 1904 from Shanghai Copy attached

Schedule of Specific Duties prepared under final Protocol

Signed Sept. 6th, 1902

Official documents thereunder enclosed.

copy

No. 576.

Consulate General of the United States,
Shanghai, April 30th, 1904.

Honorable A. A. Adee,
Assistant Secretary of State,
Washington, D.C.

Sir:

I have to acknowledge receipt of your No. 389 of March 7th asking me to send you the note signed at Shanghai on August 29th, 1902 by the various Commissioners who signed the new tariff schedule.

I have to refer you to my 479 of Sept. 10th, 1902 in which I enclose you " (5) copy of letter to the Chinese Commissioners with regard to samples. Government stationery, passengers baggage, advertising circulars, and foreigners private effects. (6) reply to No. 5 (Chinese and translation). (7) copies of customs notifications therein referred to."

These are all the papers I have in the matter.

I am, Sir,
Your obedient servant,
John Goodnow,
Consul General.

No. 878.

Consulate General of the United States,
Shanghai, April 30th, 1903.

Honorable A. A. Adee,
Assistant Secretary of State,
Washington, D.C.

Sir:

I have to acknowledge receipt of your No. 380 of March 7th asking me to send you the note signed at Shanghai on August 29th, 1902 by the various Consular Powers who signed the Mixed Tariff Schedule.

I have to refer you to my 470 of Sept. 10th, 1902 in which I enclose you " (8) copy of letter to the Chinese Commissioners with regard to Ningpo, advertising Government stationery, passengers baggage, advertising circulars, and foreigners private vessels. (9) reply to No. 3 (Chinese and translation). (7) copies of customs notifications therein referred to."

These are all the papers I have in the matter.

I am, Sir,

Your obedient servant,

John Goodnow,

Consul General.

No. 479

Consulate-General of the United States,

Shanghai, Sept. 19th 1890 2

Honorable A. A. Adee,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to confirm your telegram of August 13th received by me in Nagasaki.

"Goodnow, Shanghai. August 13th, 4 P. M. You are authorized to sign revised Tariff advantageously (?11312) Sharretts Treasury desires early return to post. Need not wait to sign. Adee, acting."

And my reply sent from Nagasaki

"Secstate, Washington. Here at present ill. Will return in time to sign Tariff. Goodnow."

And your telegram of August 27th

"Goodnow, Consul General, Shanghai. If Chinese Commissioners request you may jointly sign Sharretts tariff. Inform Conger. Adee, Acting."

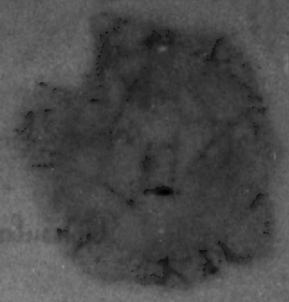
I received a letter from their Excellencies asking me to meet with them on Saturday Sept. 6th to sign with them the same documents that the Commissioners of other nations signed. I hand you herewith a copy of a letter which I filedwith them as against changes by future signers

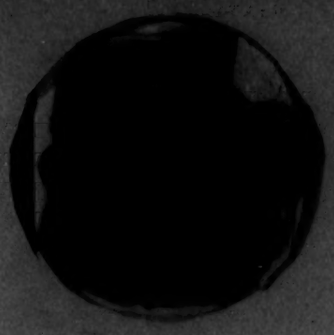
2- The formal agreement

3- The schedule of specific duties (in English)

4- The schedule of specific duties (in Chinese)

5- Copy of letter to the Chinese Commissioners with regard to samples, Government stationery, passengers baggage





foreigners private effects.

6- Replied to No. 5 (Chinese and Translation)

7- copies of Customs notifications therein referred to.

I signed the general agreement as I did, in order that in the official records Mr. Sharretts should be shown as having done the work. The American merchants here are highly pleased with the way in which Mr. Sharretts took care of their interests in the preparation of this specific Tariff.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

Rec. Sept. 6 confirmed "See State. Washington. Tariff signed. British treaty signed yesterday Goodnow"

Shanghai, August 15th, 1902

Your Excellencies,

We, the Special Commissioners of Germany, Great Britain, Japan and the United States of America, in affixing our signatures to the new Chinese Specific Tariff, wish it to be clearly understood, in view of the fact that the Special Commissioners ofother Countries are only empowered to sign the Tariff subject to reference to their Respective countries Governments and that other powers have not yet appointed Representatives to sign it, that no alterations can hereafter be made in the said Tariff or Rules appended thereto by agreement between China and any other power, unless the consent of our Governments to such alterations shall first have been obtained.

We have the honor to be,

Your Excellencies most obedient servants

(Signed) Dr. Boye

" Jas. L. MacKay

"

M. Odagiri

" J. Yamaoka

" John Goodnow

Their Excellencies

Lu Hai-huan and Sheng Hsuan-Huai

etc. etc. etc.

Copy: Jobn le Ferguson

Shanghai
Aug. 29th 1902.

Your Excellencies.

With reference to the New Tariff which has just been signed, this Note puts on record that the following words have been erased from Rule II of the Rules at the end of the Tariff:— "Samples in reasonable quantities & certified to be for show, & not for sale; Government Stationary for Consulates in China, passengers' baggage for bonâ fidê private use; Circulars, &c; distributed gratis of mercantile houses; and private effects (not including wines, stores & tobaccos) of individual foreigners imported by themselves for their own personal use & not for sale provided that the Custom Authorities are satisfied that the article in question fulfil these conditions"; and also "personal baggage of less than twenty passengers and"

It is understood between the Foreign & Chinese Commissioners that, though the above words have been

Eliminated from the Rules, the matter therein referred to will be dealt with by the Inspector General of the Imperial Maritime Customs at his discretion in accordance with the instructions issued by him subsequent to the Final Protocol of the 7th September 1901.

We have the honour to be,
Your Excellencies' obedient servants.

(signed) Hirsch
(signed) D. Siffert
(signed) Dr Boyé.
(signed) Jas. L. Mackay
(signed) E. Hioki
(signed) J. Yamaoka
(signed) Advocaat
(signed) F. B. S. Jacob
(signed) D. Siffert
(signed) John Goodnow.

藏書

施宣圻

X3103
KEK

Sept. 6th, 1902

Salutation:

With regard to the note of the Foreign Commissioners dated 29th August, 1902, relating to erasures in Article ii of the Rules appended to the New Tariff, their Excellencies Lu and Sheng would say that they have noted the excluded passages referred to; and that with regard to the understanding (also referred to in the noteof the Foreign Commissioners) that the matter contained in the excluded passages will be dealt with by the Inpspector Geneal of the Imperial Maritime Customs at his discretion in accordance with the instructions issued by him subsequent to the final Protocol of the 7th of September, 1901, the Inspector General has already referred the matter to the Chinese Foreign Office which has approved.

Felicitation,

The cards of the Chinese Commissioners.



y Free List.

ulars Nos 979, 984, 1016, 1020, 1022,

Instructions received.

12th Oct. 1901.	1-	Foreign Rice, cereals and flour, gold and silver coined and uncoined.
12th Oct. 1901	2-	Legation supplies from abroad.
7th Nov. 1901.	3-	Supplies for the use of Foreign forces Military and Naval.
19th April 1902 b	4-	Official stationary actually transmitted by foreign Governments Departments for Foreign Consulates.
1 May, 1902	5-	Supplies under Government stores certificates.
31 May, 1902	6-	Materials for Railways the import of which "free" isprovided for by agreements antedating the Peace Protocol.
10th May, 1902	7-	Samples; in reasonable quantities certified for show and not for sale.
3 June, 1902	8-	Circulars etc., distributed gratis by mercantile houses.
12 Oct. 1901 3 June 1902	9-	The <u>bona fide</u> baggage of travellers i. e. passengers luggage arriving either with the owner or by a vessel other than that by which the passenger travels.
3 June, 1902	10-	Clothing, books, pictures and furniture already in use when brought in by residents and not for sale.
31 May, 1902	N. B.	Ships Coal andprovisions are entitled to drawbacks.

Schedule of Import Duties
signed Sept 6 1902
at Shanghai China by the
Chinese and American Commissioners.

CONSULAR BUREAU
DIPLOMATIC BUREAU
Ask & file.
DEPT OF STATE
OCT 16 1902
2ND ASST SECRETARY
CONSULAR BUREAU
RECD
OCT 14 1902
DEPT OF STATE

No. 480

Consulate-General of the United States,

Shanghai, Sept. 12th 1902.

Mr. Goodnow,

To the Department of State.

File

Subject:

Schedule of Sepcific Duties.

Abstract of Contents.

Confirming telegram that irrelevant conditions should not be imposed by nay one.

No. 480

Consulate-General of the United States,

Shanghai, Sept. 12th, , 190 2

Honorable A. A. Adee,

Assistant Secretary of State,

Washington, D. C.

Sir:

The following telegram is hereby confirmed.

"Washington, Sept. 12th. Goodnow, Shanghai. Tariff conversion a distinct subject of agreement settled by the protocol. Amended schedule is in technical execution of that agreement. We can not acquiesce that any irrelevant condition be imposed on its acceptance by non signatory. repeat to Minister Conger.. Adee, acting."

I have repeated the above to Minister Conger and will communicate its contents to the Chinese commissioners if necessary.

I am sir,

your obedient servant,

John Goodnow

Consul General.

No. 460

Consulate General of the United States,

Montreal, Sept. 13th, 1910.

No. 4. Mr. Knox,

Department of State,

Washington, D.C.

The following telegram is hereby acknowledged.

Washington, Sept. 13th, 1910. Goodnow, Shanghai. Your
conversation a disciplinary action or agreement between the
protocol. Amended schedule in the treaties exemption
of that agreement. You can use assurance that any
investment condition be imposed on its acceptance by
non signatory. Repeat to Minister Conger, Peking.

I have requested the above to Minister Conger and will
communicate any reference to the Chinese Commissioner of Maritime
Customs.

I am sir,

Your obedient servant,

Thos. Sherman.

Consul General.

CONSULAR BUREAU.
to DIPLOMATIC BUREAU.

RECEIVED
OCT 14 1902
DEPT OF STATE

3rd. ASST. SECRETARY.
OCT 14 1902

No. 481.

Consulate-General of the United States,

Shanghai, Sept. 13th, 1902.

Mr. Goodnow,

To the Department of State.

DIPLOMATIC
OCT 20 1902

Rec'd Oct 18/02
Minister to China
appointed J. Mr. Cook
now reappointment, Oct. 22

Subject:

Appointment on Conservancy Board.

Abstract of Contents.

Should be renewed one year.

St. Helier, Sept. 15th

Appointment on Conservancy Board.

Should be removed one year.

No. 481.

Consulate-General of the United States,

Shanghai Sept. 13 1902, , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my confidential dispatch of Sept. 13th 1901, No. 408, relative to the Conservancy of the Whangpoo River and the desirability of my appointment as Representative of the United States Government on that Board; and to your No. 293 of Oct. 17th, 1901, designating me as the representative of the United States Government on that Board;- I beg to call your attention to the fact the under Section VI of Annex No. 17 of the Final Protocol the terms of office of the members designated by the Governments is one year. It will therefore be necessary, technically speaking, that you again designate me for the period of one year.

Some time since the Consular Body sent the whole matter to Peking to the Diplomatic Body to endeavor to induce the Chinese Government to appoint its representative. As nothing has been done there, the Consular Body meets on Sept. 16th to discuss what shall be done in the matter.

I am, Sir,

Your obedient servant,

Consul General.

Shanghai, Sept. 13 1909.

H. M. S. Peirce,

Referring to my confidential dispatch of Sept. 13th 1909, No. 408, relative to the Conservancy of the Whangpoo River and the desirability of my appointment as Representative of the United States Government on that Board; and to your No. 220 of Oct. 17th, 1908, designating me as the representative of the United States Government on that Board:- I beg to call your attention to the fact that under Section VI of Annex No. 17 of the Final Protocol the terms of office of the members designated by the Governments is one year. It will therefore be necessary, technically speaking, that you again designate me for the period of one year.

Some time since the Consular Body sent the whole matter to Peking, to the Diplomatic Body to endeavor to induce the Chinese Government to appoint its representative. As nothing has been done there, the Consular Body wants on Sept. 16th to discuss what shall be done in the matter.

I am, Sir,

Your obedient servant,

Consul General.

CONSULAR BUREAU.

CONSULAR BUREAU RECD OCT 14 '02 DEPT OF STATE

3rd. ASST. SECRETARY. OCT 14 1902

No. 482

Consulate-General of the United States,

Shanghai, Sept. 13th, 1902.

Mr. Goodnow,

To the Department of State.

Subject:

File

Estate of John Strong.

Abstract of Contents.

Claim for indemnity.

471
474

No. 482

Consulate-General of the United States,

Shanghai, Sept. 13th, 1902 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Referring to my No. 471 of July 18th and my 474 of July 25th, both with regard to the estate of John Strong, deceased, I have to report that I appeared before the American Claims Commissioners on behalf of the claim filed by Strong before his decease for Mex. $5146.50 and requested that the amount of their allowance should be made to Margaret Karg and Joseph F. Karg, Trustees, #56 S. 9th St. Brooklyn, N. Y.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

4

9

OCT 17 1902 DEPT OF STATE

CONSULAR BUREAU.

3rd. ASST. SECRETARY. OCT 18 1902

No. 483

Consulate-General of the United States,

Shanghai Sept. 15, 1902.

Mr. Goodnow

To the Department of State.

RECEIVED OCT 18 1902 DEPARTMENT OF STATE

JH

Subject:

Treaty revision -

Abstract of Contents.

Confirming telegram this date.

No. 483

Consulate-General of the United States,

Shanghai, Sept. 15th, 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

The following telegram is hereby confirmed, "The Chinese Commissioners ask that Article XXIX be amended to read 'According to the terms of Annex XIII of said protocol'. Instruct. Goodnow."

This telegram was referred to in our No. 21 treaty commission in the enclosure No. 20 Treaty Commission to the Hon. E. H. Conger.

I am, Sir,

Your obedient servant,

John Goodnow

Consul General.

CONSULAR BUREAU.

3rd. ASST. SECRETARY.
OCT 18 1902

No. 45

Consulate-General of the United States,

Shanghai, Sept 15th, 1902.

CONSULAR BUREAU
OCT
18
1902
DEPARTMENT of STATE

Mr. John Goodnow

CONSULAR BUREAU
NOTED.

To the Department of State.

Sir: Ans by form
NOV 17/02

Subject: Marriage Certificate

Abstract of Contents.

Forwarding Marriage Certificate of John Arthur Richards & Thamm Paul.

INDEX BUREAU
NOV 18 1902
FILED

No. 45

Consulate-General of the United States,

Shanghai, Sept. 15th, 1902.

Honorable N. A. D. Peirce.

Assistant Secretary of State,

Washington, D. C.

Sir:

I beg to hand you herewith a Manifest Certificate of John Arthur Richards and Jean Thine.

I have the honor to be

Sir,

Your obedient servant.

John Goodnow

Consul General

Enclosure: 1 as above stated.

CERTIFICATE OF MARRIAGE

Consular Office of the United States of America

SHANGHAI, CHINA Aug 23 1902

I, A.H. White deputy Consul-General of the United States at Shanghai, China, do hereby certify that, on this Twenty third day of Aug A. D., 1902, at #12 Museum road in the city of Shanghai = John Arthur Richards, aged 31 years, born in Cambridge Mass and now residing in Shanghai, and Mary Paine, aged 24 years born in Amoy China, and now residing in Shanghai = China, were United in Marriage before me, and in my presence, by Rev John R Hykes D D, who is authorized by the laws of Penn. to perform such a ceremony.

In Witness Whereof I have hereunto subscribed my name and affixed the seal of my office at Shanghai China, this Twenty third day of August, A. D. 1902, and of the Independence of the United States the 126 th

[L. S.]

A.H. White

deputy Consul-General of the United States of America.

Fee one dollar. To be issued in duplicate.

CONSULAR BUREAU.
TO BUREAU OF ACCOUNTS.
H. K. D. J.
OCT 17 '02
DEPT OF STATE
3rd. ASST. SECRETARY.
OCT 18 1902
CONSULAR BUREAU.
OCT
18
1902
DEPARTMENT OF STATE

No.

Consulate-General of the United States,

Shanghai China Sept 16 1902

Mr. Geo. A. Darby

To the Department of State.

RECEIVED.
OCT
18
1902
BUR. ACCOUNTS DEP. OF STATE.

Approved for payment under Sec. 291 R.S. Oct. 23, 1902. J.H.P.

Subject:

Transportation of prisoners to the U.S.

Copy filed with account.

Ans Oct 25/02

Abstract of Contents.

Transmitting account of expenses for the transportation of the prisoners Winn and Butler to Baw Leuntin

No.

Consulate-General of the United States,

Shanghai China sept I6th. , 1902.

Honorable John Hay

Assistant Secretary of State,

Washington, D. C.

Sir:

I have the honor to report that in pursuance of your instructions of Mar 7th. last, and under the directions of U.S.Consul General GoodnowI upon the IIth. of April last procured passage for myself and the prisoners Winn and Butler upon the Pacific Mail Steamer "Peru", drawing a draft upon yourself for $650 in order to pay therefor.

After transferring the prisoners from the JaiI to the steamer I engaged the services of a steerage passenger W.D.Mills, to act as guard over the prisoners while in port at Nagasaki, Kobe, Yokohama and Honolulu, to watch them at times at night, and to accompany me to San Quentin with them. This was done because we had information that the prisoners would wattempt to escape at any opportunity and a friend of theirs who came aboard the Tender before sailing, succeeded in passing them four files which we however we discovered before they could be used, and I deemed it unsafe to leave them unguarded at night.

For this service I paid Mr. Hills $ I00.

In regard to the account for Hotel Expenses, (for which there could be no voucher), the " Peru" arrived in San Francisco on May 9th. and sailed on the return trip to China on May I7th. and it would have been impossible for me to return sooner if I had wished to do so, but I passed the intervening seven days - partly on the railroad, partly in San Francisco and on May I0th. I took the prisoners to San Quentin with Mr. Hills. I have charged $5 per day for this period and trust the account will not be disapproved.

The law re fees seems plain, however when I agreed to take the prisoners and Mr. Goodnow telegraphed my name to you I fully expected the fee and should otherwise not have thought of accepting the taskas it was bound to be a very expensive trip and I did not at that time care to waste my money on a trip home. As the law allows a fee to be collected for such transportation in China and in the U.S. but does not say that the mileage fee can not be collected between ports in China and Japan, why is it not possible for me to collect a fee for the trip between here and Yokohama?

On the I2th. inst. I drew a draft upon yourself for the balance due under the account $I9.55 and enclose all the vouchers that are available.

I have the honor to be Sir:

Your obedient servant

5 nclosures

Geo A Derby -
U.S.Marshal Shanghai.

CONSULAR BUREAU.
OCT 17 1902
DEPT OF STATE

3rd. ASST. SECRETARY.
OCT 18 1902

No. 484

Consulate-General of the United States,

Shanghai Sept 16, 1902.

CONSULAR BUREAU
OCT
18
1902
DEPARTMENT OF STATE

Mr. Goodnow.

To the Department of State.

Sent by pouch
Oct 21/02

Dec 20 '02 to Committees of Senate & House

Subject:

Canal Treaty's 137.

Abstract of Contents.

Endorsing and recommending request to be allowed to accept a Chinese decoration, if consistent with general policy.

INDEX BUREAU
DEC 22 1902
FILED

Thursday May 15

Sunshine

Cambridge 1917.

Nothing but recommendations to report
to be allowed to accept a Chinese
classmates, all committees until
further notice.

No. 484.

Consulate-General of the United States,

Shanghai Sept. 16 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I enclose herewith Consul Gracey's #127 asking you to secure permission for him to accept a decoration from the Chinese Government for services in preventing extension of the Boxer troubles during 1900.

If it is consistent with your general policy for Consuls to be allowed to accept decorations, I know of no U. S. official more worthy to receive such a decoration than Co nsul Gracey. He had established a reputation among the Chinese, both officials and gentry, for justice, friendliness , and wisdom. Consequently, when the trouble came and the Viceroy and local officials had to decide whether they would or would not follow the disturbers, Consul Gracey's influence and advice was very potent on the side of peace. He was in close touch with me; and I felt all the time that we had no anxiety regarding the situation in that regionwhile Consul Gracey's quiet, steady influence was over the responsible Chinese officials.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

August 8th, to 1900.

H. E. P. Bolton.

I enclose herewith General Greene's diary making you to secure permission for him to accept a decoration from the Chinese Government for services in preventing extension of the Boxer troubles during 1900.

It is in accordance with our general policy for Generals to be allowed to accept decorations. I know of no U. S. official more worthy to receive such a decoration than Gn Gen Greene. He had established a reputation among the Chinese, both officials and people, for justice, friendliness, and wisdom. Consequently, when the trouble came and the Viceroy and local officials had to decide whether they would or would not follow the disturbers, General Greene's influence and advice was very potent on the side of peace. He was in close touch with me, and I felt all the time that we had an ally regarding the situation in Pekin through General Greene's relations. Although quiescence was over the temperable Chinese officials,

Yours truly,

William Woodville

General Secretary.

CONSULAR BUREAU.

3rd. ASST. SECRETARY.
OCT 20 1902

No. 485

Consulate-General of the United States,
Shanghai Sept. 26, 1902.

Mr. Gardner

CONSULAR BUREAU
OCT
21
1902
DEPARTMENT OF STATE

To the Department of State.

Subject:
Arms for Consulates

Abstract of Contents.
How distributed arms is directed.

No. 485.

Consulate-General of the United States,

Shanghai Sept. 26 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I have to acknowledge receipt of your #317 of May 6 1902 directing me to distribute certain arms and ammunition among the Consulates in China.

The arms have been rece ived here and have been sent to the Consulates as directed.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

No. 486

Consulate-General of the United States,

Shanghai Sept 24, 1902.

Mr. Loomis

To the Department of State.

File.

CONSULAR BUREAU.
OCT
29
1902
DEPARTMENT OF STATE

re the whereabouts of Mrs. O'Reilly

Subject:

to Mrs O'Reilly

Ack by forwd to Mrs O'Reilly Oct 31/02

Abstract of Contents.

Reply to Dspts E 333

9 19 03
Mrs O'Reilly aug 12/02

No. 486.

Consulate-General of the United States,

Shanghai Sept 29 1902. , 190 .

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

Repying to your #333 ofAug. 19 enclosing letter from Mrs. Mary O'Reilly in regard to her son now in Shanghai.

The young man is on the Police force where he is said to be doing well. He has no desire to return to the United States at the present time. I can not send him home against his will. He assures me that he will write to his mother.

I am, Sir, your obedient servant,

John Goodnow

Consul General.

Shanghai

No.

Consulate-General of the United States,

September 29th., 1902.

Mr. John Goodnow,

To the Department of State.

Subject:

Ackby form Oct 31/02

United States vs. F. Plant,

United States vs. A. J. E. Brown-Burke.

Abstract of Contents.

No.

Consulate-General of the United States,

September 29th., 1902.

Honorable H. H. D. Peirce,

Assistant Secretary of State,

Washington, D. C.

Sir:

I hand you herewith reports in duplicate of the case of United States vs. F.Plant, and United States vs. A. J. E. Brown-Burke.

I am Sir,

Your obedient servant,

Consul General.

U.S. CONSULAR COURT.

Shanghai, 23rd September.

Before the Hon. John Goodnow, Consul General, and Messrs. David Lattimore and Chas Stuhrmann, Assessors.

STEALING A SCHOONER.

F. Plant was charged with being concerned with two others in forcibly boarding and stealing the schooner Agnes and also with obtaining goods to the value of $73.35 by means of false pretences.

Inspector Bourke mentioned that the prisoner was charged with two British subjects who had been tried in H.B.M.'s Supreme Court found guilty, and sentenced one to nine months and the other to one year's imprisonment. The two British prisoners in their evidence had implicated the prisoner.

Geo. A. Derby, sworn, stated that he was part owner of the Agnes which was stolen but had since been recovered. The laodah told him that there was a third man concerned in the stealing of the boat but he had no personal knowledge of the defendant's connection with the affair. The laodah gave witness no names. The Chinese around the b at said that the third man landed on the eastern bank of the creek and proceeded in the direction of Woosung. They described him as a tall man with a full beard

The laodah of the Agnes cautioned stated that he did not know defendant before. On the Sunday defendant came on board the Agnes with two other foreigners. Prisoner wanted to make use of the boat and he said he could not let him have the boat without his master's permission. The two others came on board with some provisions. One of the men asked him to open a bottle of whisky which prisoner also drank. Prisoner told him to take up the anchor and to proceed to Woosung. The other two foreigners gave him the same order. They spoke in English. He refused to do so and they went and broke the anchor chain. The tall man held him down while the other two worked at the anchor. Prisoner told him not to let Mr. Derby know anything about the affair. When they got to Woosung, they wanted him to go to Yokohama. He said he could not do so because the water was too high. At a place called Singkasiubo the boat canted. He did not know whether this was done purposely. Two men were steering. At the time the ship went ashore prisoner was below. Prisoner was lying down when witness availed himself of the opportunity to run away. He jumped into the water and waded ashore. Prisoner made no attempt to stop him from going away.

By Inspector Bourke: He objected to the foreigners coming on board. He attempted to cry out but the tall man placed his hands over witness's mouth.

Cross-examined: Prisoner said he knew who was the owner of the boat.

Inspector Bourke said he wished to read the statements made by the other two prisoners at the British Court.

His Honour said that the statements must be testified to. He would apply to the British Consulate for the evidence of the two men convicted in the British Court.

D.-S. Macdowell, sworn, stated that about 5 p.m. on the 11th August two men were brought to the station by Mr. Derby and charged with stealing his boat. Witness made enquiries and ascertained that there was another man concerned in the affair. At 6.30 [illegible] prisoner who after being cautioned admitted that he ran away with the schooner. He said he did not know what he was doing and that it was a very foolish thing on his part. Prisoner also said that when the ship was grounded he jumped ashore. Prisoner simply admitted that he took part in the stealing of the schooner, but he did not admit anything about taking the provisions. He said he knew the boat belonged to Mr. Derby.

Cross-examined: I think Sergeant Johnson was at the station when you came in. You were coming into the station when I arrested you. I may have a gun with me at the time. You said you heard that I was enquiring for you and you wanted to know what was the matter. I think you called me outside and told me all about the affair. To the best of my recollection I don't think you were at the station long before I arrived.

By the Court: From what I could gather prisoner came to the station in order to turn King's evidence against the other two men. I don't admit that prisoner came to the station in order to give himself up. The reason prisoner came to the station was that he had heard that I was looking for him.

Inspector Bourke said that completed his evidence.

Prisoner said he thought he was shipping off in the schooner. He met the other two men in a store in Broadway and went on board with them. He had some whisky on board and went to sleep. When he woke up in the morning he ran the ship ashore and came on to Shanghai where he reported the matter to Detective MacDowell. He had no intention of stealing the ship. He was drunk at the time.

By the Court: He arrived in Shanghai at five o'clock and went to the house first to change his clothes as he was covered with mud. He was in the charge room when Detective MacDowell came in with a gun. He told the detective all about it. He did not know that Mr. Derby owned a boat. He did not tell the laodah to take up the anchor. He fell asleep at the bottom of the boat. He woke up at 3 o'clock in the morning and went ashore about 5 o'clock. He never steered the ship at all, but he turned the ship ashore. He did not know that the anchor was gone.

At this stage his Honour said he would adjourn the case till 2 p.m. for the attendance of the other witnesses.

On resuming at 2 p.m., Sergeant Maymay sworn, said that he was on duty at the Hongkew Station charge room on the afternoon of the 11th August. The prisoner Plant came in the back way about 6.30. p.m. Mr. McDowell was there when Plant arrived. Mr. McDowell went outside and spoke to Plant for about a minute and then put him in the dock and charged him.

Charles Smith, called, said that Plant had nothing to do with the taking of the boat, as far as he knew. He did not remember seeing Plant on board.

Charles Brown, called, made a similar statement.

A shroff from Yuen Tah's store said that about 8 p m. on the 11th of August the prisoner came to the store with two other foreigners. The tallest man of the three said he was the ship's steward. He ordered goods and they were sent down to the ship. Plant did not speak to witness.

The prisoner was found not guilty of obtaining goods by false pretences, but on the charge of stealing the boat was found guilty and sentenced to 5 months' imprisonment, to date from 11th August, the date of his arrest.

U.S. CONSULAR COURT.

Shanghai, 20rd September.

Before the Hon. John Goodnow, Consul General, and Messrs. David Lattimore and Chas Sturmann, Assessors.

STEALING A SCHOONER

F. Plant was charged with being concerned with two others in forcibly boarding and stealing the schooner Agnes and also with obtaining goods to the value of $73.35 by means of false pretences.

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By the Court: He arrived in Shanghai at five o'clock and went to the house first to change his clothes as he was covered with mud. He was in the charge room when Detective MacDowell came in with a gun. He told the detective all about it. He did not know that Mr. Derby owned a boat. He did not tell the laodah to take up the anchor. He fell asleep at the bottom of the boat. He woke up at 3 o'clock in the morning and went ashore about 5 o'clock. He never steered the ship at all, but he turned the ship ashore. He did not know that the anchor was gone.

At this stage his Honour said he would adjourn the case till 2 p.m. for the attendance of the other witnesses.

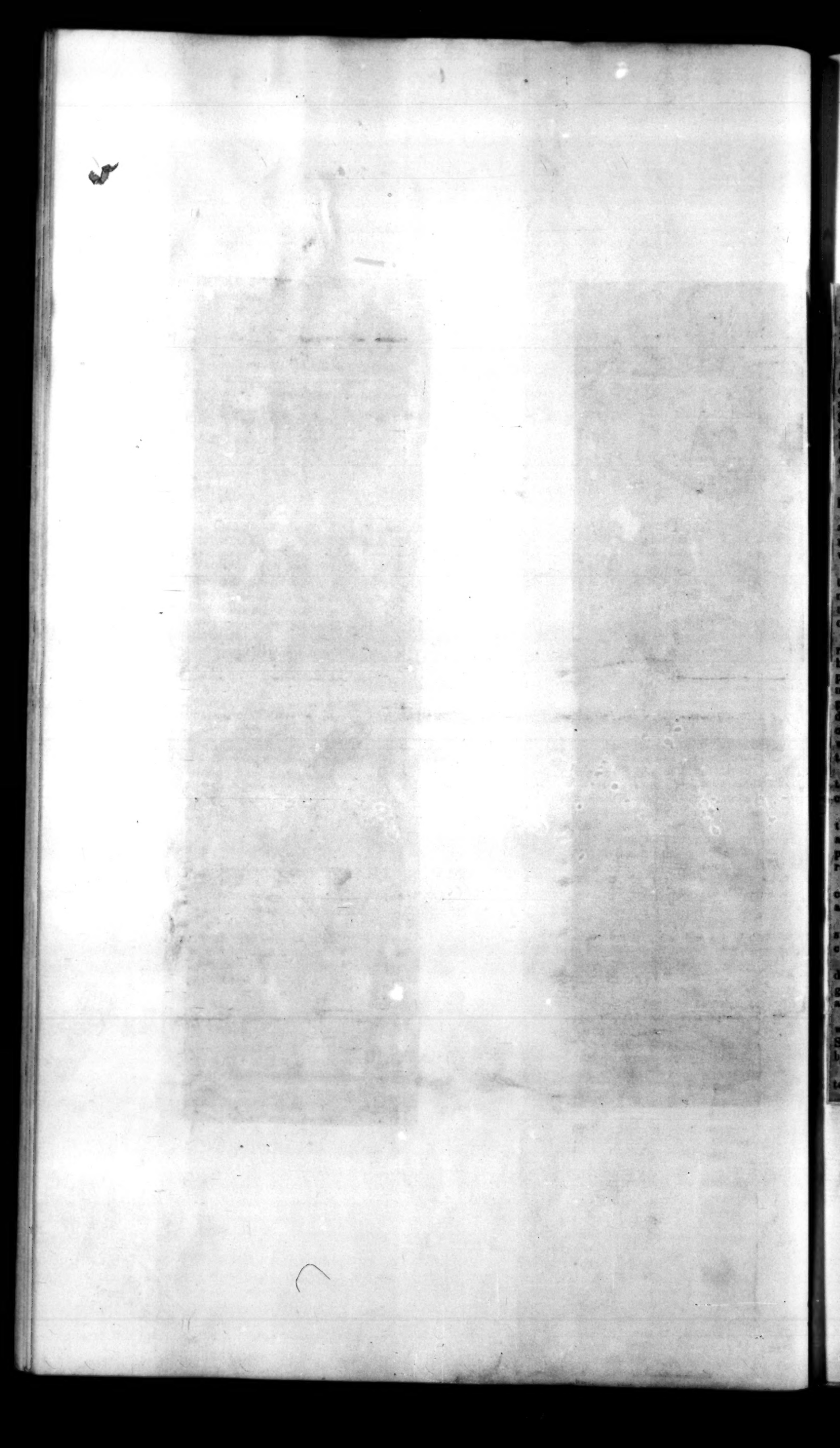
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The prisoner was found not guilty of obtaining goods by false pretences, but on the charge of stealing the boat was found guilty and sentenced to 5 months' imprisonment, to date from 11th August, the date of his arrest.



ALLEGED EMBEZZLEMENT.

A. J. E. Browne Burke attorney-at-law, was charged with having on the 31st August, whilst being employed as an attorney by one George Warren, received and collected from the Japanese Consulate General certain monies, the property of the said George Warren, to wit the sum of $500 mexican and had since refused to pay over and deliver the said money to the said George Warren and had embezzled and feloniously taken away the said money.

Mr. C. R. Holcomb appeared for the prosecution.

Defendant put in a statement of his account for professional services rendered to the complainant and for which he had never been paid.

Mr. Holcomb said his client desired to have an amicable settlement of the matter, but defendant had submitted a bill containing the most outrageous charges for his services.

His Honour said, according to the rules of procedure, as this was not a heinous offence he could give the parties an opportunity to settle the matter outside the Court, by postponing the case until the following day, but unless there was a possibility of a settlement of this difficulty he would proceed with the warrant and try the case.

Mr. Holcomb said he was prepared to submit the matter of the defendant's charges for work done to an arbitrator.

His Honour said he would postpone the case till to-morrow if there was any chance of a settlement. At present defendant was under arrest and on his own recognisances.

Defendant said so far as he was concerned he was prepared to come to a settlement.

Mr. Holcomb said he was willing to submit the question of defendant's charges to Mr. Curtis as arbitrator.

His Honour said he wished it to be distinctly understood that he was not going to complicate this matter with any other matter.

Mr. Holcomb said that Mr. Curtis was a new lawyer and had just come to Shanghai. He was willing to abide by Mr. Curtis's decision.

His Honour adjourned the case till to-morrow morning.

LAW REPORT.

U.S. CONSULAR COURT.

Shanghai, 24th September.

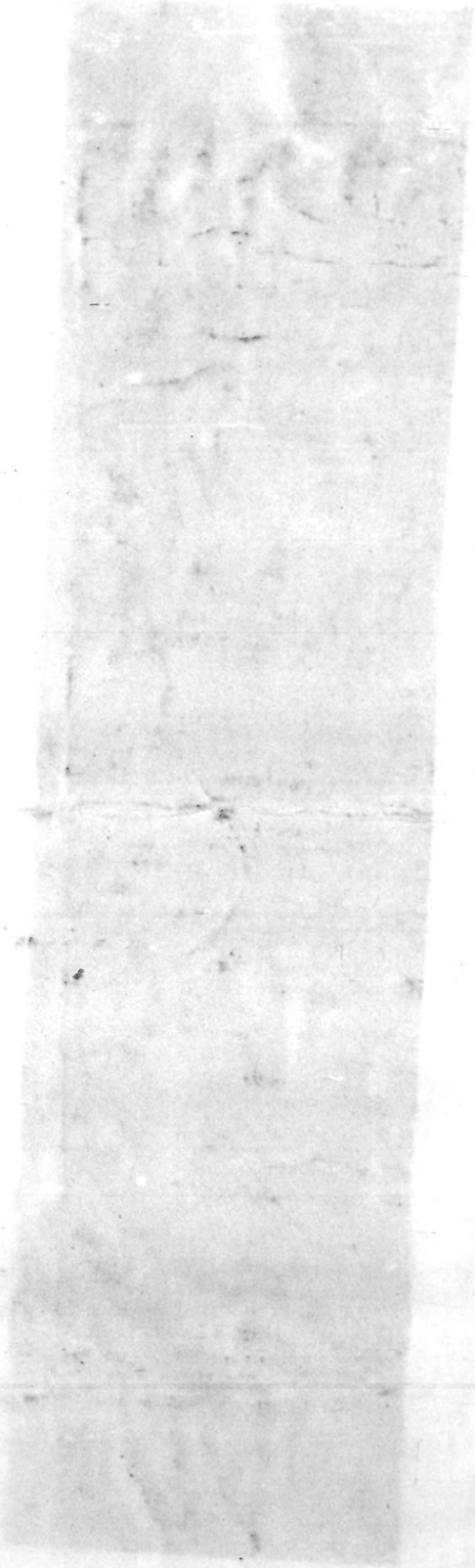
Before the Hon. John Goodnow, Consul-General.

THE PEOPLE OF THE UNITED STATES v. BROWNE-BURKE.

Mr. C. R. Holcomb appeared for the prosecutor, Mr George Warren.

The parties having agreed to submit the case to the arbitration of Mr George F. Curtis, attorney-at-law, Mr. Curtis appeared and read the following award:

The above-entitled case coming before the said Court for hearing the 23rd day of September, 1902, present the Hon. John Goodnow, Consul General and Messrs. David Lattimore and Charles Sturman, Assessors, George A. Derby, Clerk of the Court, and the prosecuting witness in said case, one George Warren, and his Attorney C. H. R Holcomb, and the defendant, A. J. E. Browne-Burke, the Hon. Consul General in compliance with instructions to do all in his power to settle out of Court all difficulties between American citizens or cases in which American citizens are parties, advised the parties in said case to settle the case out of Court if it was possible for them so to do. It was then and there agreed by said George Warren and his Attorney, C. R. Holcomb, on the one part and A. J. E. Browne-Burke, on the other part, with the consent of the Court, to arbitrate the case. The said parties thereto finally agreed to submit the case for arbitration to Attorney G. F. Curtis. Mr. Curtis agreed to accept the duties of arbitrator in said case and after fully hearing all the details of the case and the claims of the respective parties thereto, found the following practically to be the state of facts; The said A. J. E. Browne-Burke was consulted professionally by the said George Warren in regard to a misdemeanor case against one John Doe, a boy whose true name is unknown to the parties hereto, against whom a contemplated prosecution was entertained by the said George Warren; also in regard to contemplated proceedings



against one Perry, on a felony charge; also in regard to an alleged bill of sale from said George Warren to his wife, also in the case of breach of contract on the part of a Japanese circus troupe, known as the Kanazawa Troupe, said contract involving a stipulated penalty of 500 dollars (Mex), in case a breach of contract was established by the said George Warren against the said Troupe, also in regard to an alleged contract for professional services in presenting a claim for $103,600 (Gold) against China for alleged damages to said Warren during the Boxer outbreak, and purporting to assign to said Browne Burke 33/3 per cent interest in said claim for professional services rendered or to be rendered by the said Browne Burke, to said Warren. Concerning this alleged contract there was a certain telegram in relation to which the said Browne Burke claimed the sum of $9,28 cents (mex). In the Kanazawa Troupe case Mr. Burke established a breach of contract and collected $422,22 cents and retained the whole of this money for alleged professional services rendered in the above said cases. Upon investigation by the arbitrator it was found that in the case of the contemplated proceedings against the boy whose name was not known by Mr. Burke as well as in the Perry case absolutely no legal services of any kind whatever had been rendered by Mr. Burke in behalf of Mr. Warren. In regard to the alleged bill of sale, the validity of which the arbitrator will not pass upon in this report, it was agreed by Mr. Burke and Mr. Warren that 25 taels was a reasonable fee in drawing the said alleged bill of sale. In regard to the said Kanazawa Troupe it was agreed by the parties hereto that 20 per cent. of the fee collected, to wit, $84.44 cents (Mex) was a reasonable fee; and in regard to the claim of $9.28 cents (Mex) for the said telegram it was decided by the arbitrator and agreed to by the parties thereto to have absolutely nothing to do (being a contingent fee case) with the money collected in the Kanazawa case, and it was further decided by the arbitrator after a most careful consideration of the said contract from a legal standpoint, and for the interest of the professional reputation of the said Browne Burke, that the same this alleged contract was cancelled and surrendered to the said Warren the latter it would be for all parties concerned. It was then and there agreed to surrender the said contract to the said Warren, and it was so surrendered to the said Warren, and forever cancelled. It was further agreed by the said Browne Burke upon the advice of the said arbitrator not to press the claim of $9.28 for the above said telegram. Finally it was decided by the said arbitrator that the sum of $84.44 in the Kanazawa case and $35.00 for the alleged bill of sale, making a total of $119.44 was a fair, just, and reasonable fee for professional services rendered by the said Browne Burke to said Warren, and this was agreed to by the parties hereto and in accordance with the foregoing agreement. By the advice of the arbitrator the said Browne Burke drew a receipted bill for $119.44 (Mex) in full for all legal services rendered by him for the said Warren of any nature whatsoever and delivered the said receipt to the attorney of the said Warren, Mr. Holcomb, and thereupon agreed to pay to Mr. Holcomb at 10 o'clock on the morning of the 24th in the Court of the United States Consul General at Shanghai $302.78 a balance lawfully due and owing by the said Browne Burke to the said Warren, and it was further agreed by the parties hereto with the consent of the Hon. Consul General that the pending charges against the said Burke be squashed and that the costs therein be paid by the said Warren, this upon the advice of the said arbitrator after thoroughly considering the facts in relation to the said charges and in the interest of the said defendant Burke's professional reputation.

The above report is respectfully submitted to the Hon. Consul General John Goodnow. This 25th day of September 1902.

George F. Curtis
Arbitrator.
No. 2 Bund, Shanghai.

In reply to the Court, both the prosecutor and the defendant said that they agreed to the justice of the findings of the arbitrator.

Mr. Holcomb in reply to his Honour said he had no objection whatever to the case against defendant being withdrawn.

His Honour said he had entered in the indictment that the case had been settled out of Court by arbitration.

The Court then rose.



CONSULAR BUREAU.

3rd. ASST. SECRETARY.
NOV 11 1902

No. -

Consulate-General of the United States,

Shanghai Sept 30, 1902.

Mr. Goodnow

To the Department of State.

Rec'd by Trans Nov 12/02

CONSULAR BUREAU
DEPARTMENT OF STATE

Subject:

Alleged Embezzlement.

Abstract of Contents.

Report of Ranger re Emeterio.

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No. =

Consulate-General of the United States,

Shanghai Sept 30, 1902.

Honorable H.H.D Peirce

Assistant Secretary of State,

Washington, D. C.

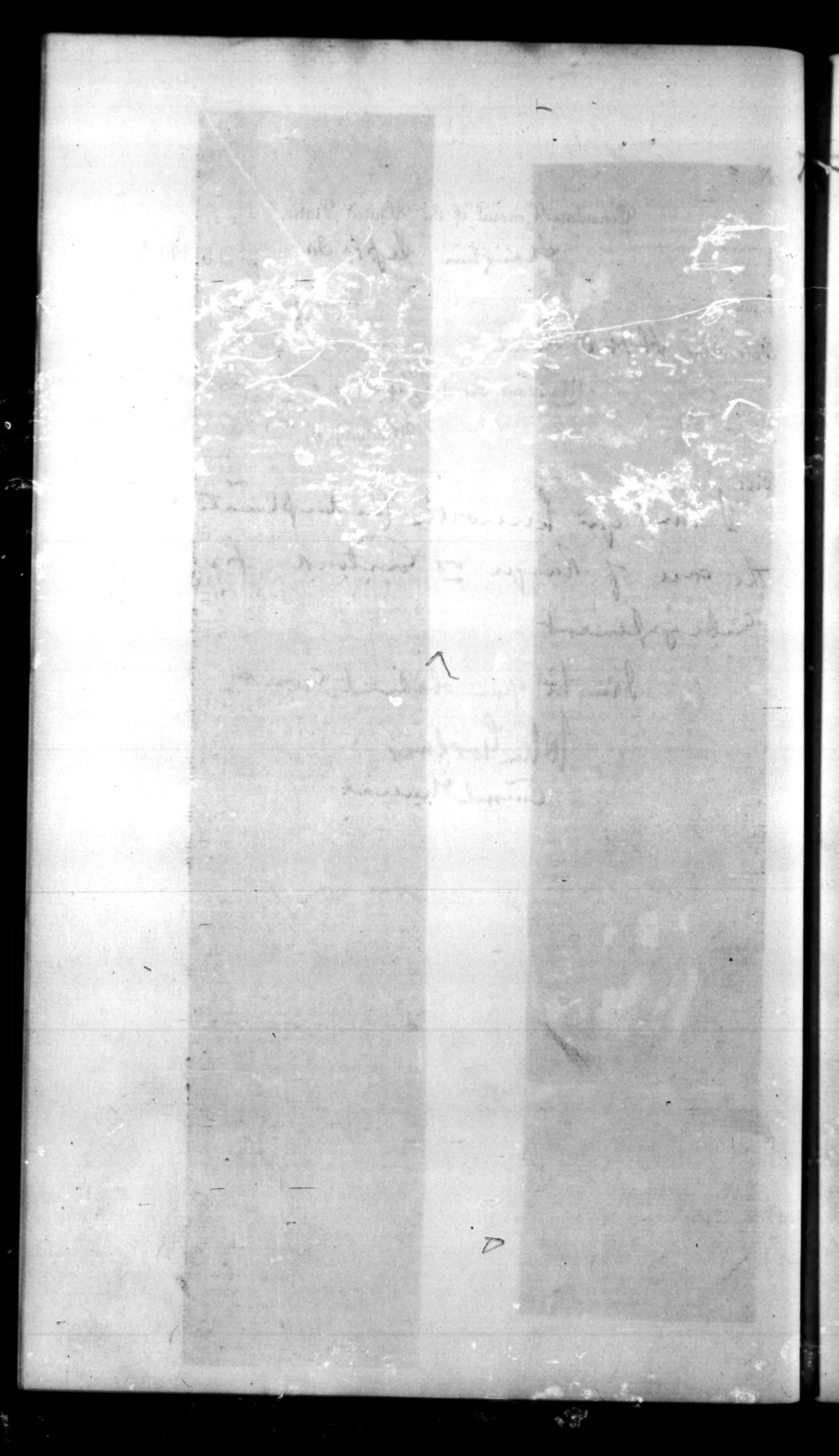
Sir:

I hand you herewith (in duplicate) the case of Rouse vs Eastwood for embezzlement.

I am, Sir, your obedient servant

John Goodnow

Consul General



U.S. CONSULAR COURT.

Shanghai, 17th September.

Before The Hon. [illegible],
Consul-General.

ANDREW AND GEORGE v. S. H. COMSTOCK.

Mr. A. S. P. Wade-Cooper and with him Mr. A. H. Latter appeared for the plaintiffs and Mr. C. F. Curtis appeared for the defendant.

Mr. Latter put in the following amended indictment signed by Mr. J. H. Ranger as manager of Messrs. Andrews and George:

The above named John Henry Ranger hereby indicts and charges the above named Samuel Howard Comstock with having committed the offence against the peace of the people of the United States of America to wit.

1.—That Samuel Howard Comstock being employed as a clerk to Messrs. Andrews and George and whilst he was so employed received and took into his possession at Port Arthur and Shanghai certain money to a large amount to wit to the amount of $3,033.31 the net proceeds of sale of goods of Messrs. Andrews and George his masters entrusted to him for sale and the said $3,033.31 did admit at Shanghai on or about the 12th July, 1902 to be the property of his masters and that instead of paying over the same to his masters as was his duty to do he did then and there fraudulently embezzle the said money and from his masters did feloniously steal and take away the same.

2.—That Samuel Howard Comstock on the 3rd March, 1902 being then employed as clerk to Messrs. Andrews and George and whilst he was so employed did receive and take into his possession certain money to wit $2,000 for and on account of his said masters Andrews and George being the proceeds of sale of a typewriter the property of his masters sold and delivered to His Britannic Majesty's office of works at Shanghai and the said money the property of his said masters did then fraudulently and feloniously embezzle and such money did from his masters feloniously steal and take away.

3.—That Samuel Howard Comstock being then employed as clerk to Messrs. Andrews and George and whilst he was so employed did unlawfully knowingly and designedly falsely pretend to the said masters Messrs. Andrews and George and to John Henry Ranger their manager that he had paid out of the moneys of his said masters three sums of Roubles 500, R. 50 and R. 100 and the said Samuel Howard Comstock ought to have paid the same legal expenses and he did wrongfully enter such payments in his accounts as having been paid by him between the dates of 9th April and 5th May, 1902 and did not deliver his accounts at Shanghai to his said masters and the said John Henry Ranger their manager on the 7th June, 1902 with intent to deceive and defraud his said masters therein in fact he had not paid such sums.

4.—That Samuel Howard Comstock being employed as clerk to Messrs. Andrews and George and whilst so employed did feloniously knowingly and designedly falsely pretend to Messrs. Andrews and George his masters and the said John Henry Ranger their manager that he had paid out of the money of his said masters as a deposit the sum of Roubles 500 and did wrongfully enter such payment in his accounts rendered to his said masters at Shanghai and to their said manager on the 7th June, 1902 with intent to deceive and defraud his said masters whereas in fact he had not paid such sum.

His Honour said the present indictment was more precise and he understood from the signature that this was an indictment by Andrews and George against the defendant.

Mr. Latter said that the indictment was made jointly by Messrs. Andrews and George and their manager Mr. Ranger.

His Honour said an indictment could not be made in the name of several persons.

Mr. Latter said that Mr. Ranger as manager was responsible for all monies in the Shanghai branch of the firm. It was his duty to recover all monies belonging to the firm whether the prosecution was actually undertaken in his name or that of the firm. It was his duty to do that though personally he had no interest in the matter.

His Honour said Mr. Ranger as an U.S. citizen had a right and duty to bring the charge.

Mr. Latter asked whether he could have a joint indictment in the name of Andrews and George as two persons. Mr. Ranger had testified at the last hearing that he had no interest in the firm.

A good deal of discussion ensued on this point.

His Honour having held that it was the duty of Mr. Ranger as a citizen to make the indictment, Mr. Latter altered the indictment accordingly.

His Honour said the indictment contained several charges and these must be taken as separate indictments as he could not try more than one charge at a time. The indictment must be considered as four separate indictments and the defendant would be asked to plead to four indictments. There could only be one alleged crime in one charge.

In reply to Mr. Latter, His Honour said he would hear what Mr. Curtis had to say on the indictment and then he would ask the defendant to plead. He understood that all the alleged embezzlements took place on the 12th July, 1902.

Mr. Latter said the first embezzlement took place on the 12th July at Shanghai. The second about the 3rd March and was also in Shanghai. The other charges were of falsification of accounts and these took place on the 7th June.

Mr. Curtis said he had read the indictment and found it so indefinite and faulty that it could not possibly bring the case to a trial. It was stated in the indictment that the offence had been committed at Port Arthur and the Court had therefore no jurisdiction in the case. His next contention was that the indictment did not mention what kind of money was embezzled — whether Mexican, Russian or United States currency. The indictment was ambiguous, jointless and indefinite.

The Clerk of the Court then read the indictment to the defendant, after which he was asked to plead.

Mr. Curtis said his client, instead of pleading objected to the jurisdiction of the Court. The indictment stated that the money was sent to Port Arthur. It was so indefinite that they must presume that the embezzlement took place at Port Arthur. It was alleged that the embezzlement was admitted at Shanghai. Such admission did not consititute an embezzlement in Shanghai. The indictment must fail on the face of it. It would be knocked down on demurrer which he would now read to—

Comes now the defendant in the above entitled action and pleads to the jurisdiction of the said Court on the following grounds to wit;

1. That said Court has no jurisdiction to try a cause of action for a crime alleged to have been committed within the territory of the Russian Empire, by a citizen of the United States

2. That the Empire of Russia has exclusive jurisdiction, of all criminal cases arising within the Empire.

3. That the Congress of the United States in the Act creating the Consular Courts and defining their jurisdiction did not give and could not give jurisdiction to its Consular Officers to indict, try, and convict, or to acquit American Citizens for crimes wholly and completely committed within foreign countries which have recognized established Governments, and are admitted into the family of nations.

4. That the Act conferring judicial power upon Consular Officers specifically limited their jurisdiction to pagan countries, to wit, China, Japan, Siam, Egypt and Madagascar. Japan has since been admitted into the family of nations.

5 That the jurisdiction of consular officers to try citizens for felonies and misdemeanors, is limited to such crimes as are committed within the territorial boundary of the pagan countries to which said consular officers are accredited, and not elsewhere.

Therefore the defendant in the above entitled action prays this honorable Court for the dismissal of said action and for his Counsel Fees and Costs.

Counsel would now proceed to argue the point and give his authorities.

The Consular Courts of the United States were created by Congress under the authority of the Constitution of the United States and by virtue thereof Article 1, Section 8, clause 9 of the United States Constitution is as follows (The Congress shall have power) "To constitute tribunals inferior to the Supreme Court" By clause 18 of the same Article the so called elastic clause, the Constitution explicitly states that (The Congress shall have power) "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

By virtue of the above cited Article and clauses Congress by section 4083 U S revised Statutes created the consular courts in the following words, to wit:, "Sec 4083. To carry into full effect the provisions of the treaties of the United States with China, Japan, Siam, Egypt and Madagascar, respectively, the minister and the consuls of the United States, duly appointed to reside in each of those countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties, respectively, be invested with the judicial authority herein described, which shall appertain to the office of minister and consul and be a part of the duties belonging thereto, wherein and so far as the same is allowed by treaty."

Congress explicitly defines the jurisdiction of consular courts by sections 4081, 4085 4086 and 4087 in the following words, to wit:,

"Sec. 4084. The officers mentioned in the preceding section are fully empowered to arrest and try, in the manner herein provided, all citizens of the United States charged with offences against law committed in such countries, respectively, and to sentence such offenders in the manner herein authorized; and such of them as may be authorized to issue all such process as are requisite and necessary to carry this authority into execution."

Sec. 4085. "Such officers are also invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, in regard to civil rights whether of property or person; and they shall entertain jurisdiction in matters of contract, at the port where, or nearest to which the contract was made or at the port at which, or nearest to which it was to be executed, and in all other matters, at the port where, or nearest to which the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained, provided such port be one of the ports at which the United States are represented by consuls. Such jurisdiction shall embrace all controversies between citizens of the United States, or others, provided for by such treaties, respectively."

Sec 4086. "Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively justify or require But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies."

Sec. 4087. "Each of the consuls mentioned in section forty hundred and eight-three, at the port for which he is appointed, is authorized upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made or information filed in writing and subscribed in such a way as shall be prescribed by the minister, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offense against law; and to arraign and try any such offender; and to sentence him to punishment in the manner herein prescribed."

It is respectfully submitted that a careful reading and study of these sections of the revised statutes fail to show any other territorial jurisdiction than that of the respective pagan countries to which said minister and consular officer is accredited.

It is further respectfully submitted that if any other construction were put upon these sections of the revised statutes, it would confer the power upon ministers and consular officers to try citizens of the United States for alleged crimes committed in any part of the world, provided they could secure the presence of the citizens in their court. It is further respectfully submitted that the subject matter of a cause of action is a further element in conferring jurisdiction which would be wanting in such cases as above referred to.

It is further respectfully submitted that it is merely a question of the interpretation of the preceding cited sections to determine the jurisdiction of the consular courts in the Orient; and these sections must be interpreted strictly according to the letter of the law

What is the jurisdiction of a court? It is a power constitutionally conferred upon a court, a single judge, or a magistrate, to take cognizance and

[illegible] to be passed on to him, and to carry their sentence into execution. The tract of land within which a court, judge, or magistrate has jurisdiction, is called his territory; and his power in relation to his territory is called his territorial jurisdiction. 3 Bouv. Inst. 71.

Jurisdiction is Original when it is conferred on the court officers in the first instance; it is Appellate when an appeal may be taken from the decision or judgment of another court. It is Concurrent when it may be entertained by several courts, although it is a rule in these cases of Concurrent jurisdiction for the court which is first seized of the cause to try the cause to the exclusion of the others.

Jurisdiction is Exclusive when only one court has the right to try the action or matter in dispute.

Assistant jurisdiction is that which is afforded by a court of chancery in aid of a court of law as for example by a Bill of Discovery.

It cannot be claimed that the U. S. Consular Court of Shanghai has territorial jurisdiction in the Empire of Russia. Russia is too jealous of her own jurisdiction, particularly in the neighbourhood of Port Arthur, to entertain even for a moment such a claim. It certainly cannot be claimed that the Consular Court has original jurisdiction in Russia, no Appellate jurisdiction therein, nor has any authority been produced to show that the Court has Concurrent jurisdiction therein, nor Exclusive jurisdiction, which it would be absurd to claim, nor Assistant jurisdiction.

If there is any other jurisdiction than those defined, Counsel for the Defendant is unable to find them. In a word, the U. S. Consular Court has no jurisdiction whatever in the Empire of Russia; it has not even jurisdiction in all parts of the Empire of China, the Consul-General at Shanghai having no jurisdiction in the District of Canton, nor Chefoo. His territorial district is defined from the State Department at Washington, outside of which jurisdiction as defined, the Consul General at Shanghai cannot entertain jurisdiction.

The proceedings in any court are void that wants jurisdiction of the cause in which it has assumed to act. Jurisdiction is first of the subject-matter, and second of the person whose rights are to be passed upon.

A court has jurisdiction of any subject-matter, if by the law of its organization it has authority to take cognizance of, try, and determine cases of that description.

It is a maxim of the law that consent can never confer jurisdiction (Coffin vs Treaty, 8 Colorado, 189; Blin vs Campbell, 14 Johns 432; Cuyler vs Rochester, 12 Wind 165. This consent means that parties cannot empower a court to act upon subjects which are not submitted to its determination and judgment by the law. The law creates courts, and upon considerations of general public policy defines and limits their jurisdiction; and this can neither be enlarged nor restrained by the acts of the parties.

Accordingly, when a country by law has no jurisdiction of the subject-matter, a party whose rights are sought to be affected by it is at liberty to repudiate its proceedings and refuse to be bound by them.

Where a court has the parties before it, it must necessarily ask jurisdiction so far as to decide as to whether it can entertain the suit or proceeding, that is, whether it has jurisdiction of the action.

King vs Peck, 26 Barb 212 1 Wait, Actions and Defenses. P. 45, and cases therein cited.

An act to be criminal must be alleged to be an offense against the sovereignty of the government. This is of the very essence of crime punishable by human law. How can an act done in one jurisdiction be an offense against the sovereignty of another? All the cases turn upon the question where the act was done.

This case is not at all like those where the defendant is tried in England for a crime in one of the dependencies of the British Empire. There the act is done and the crime is in fact committed against the sovereignty of the British crown, and only the place of trial is changed. If our government takes jurisdiction of this case, it must be not by virtue of any statute, but because it assumes general power to punish acts mala in se wherever perpetrated in the world. The fact of the party injured, can give no additional jurisdiction.

Such crimes may be committed on the seas, in lands where there are, or where there are not, regular governments established. When done upon the high seas, they may be either upon our vessels or upon vessels belonging to other governments. When done upon our vessels, in whatever solitary corner of the ocean, from the necessity of the case, and by universal acceptance, the vessel, and all that it contains, is still within our jurisdiction, and when the vessel comes to port the criminal is still tried for an act done within our jurisdiction. But we have never treated acts done upon the vessels of other governments as within our jurisdiction, nor has such ever been done by any civilized government.

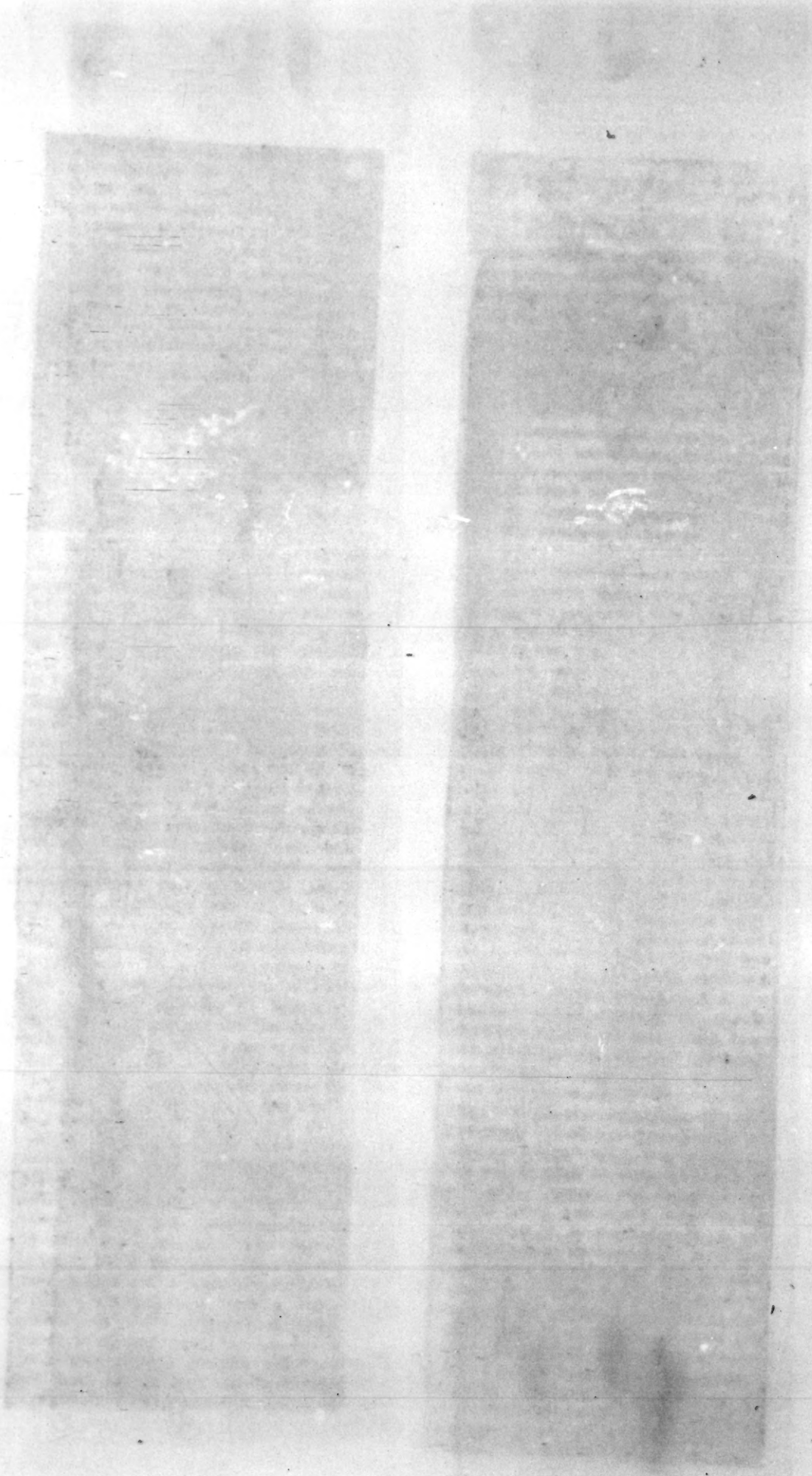
When an act malum in se is done in solitudes, upon land where there has not yet been formally extended any supreme human power, it may be that any regular government may feel, as it were, a divine commission to try and punish it, may, as in cases of crime committed in the solitudes of the ocean, upon and by vessels belonging to no government pro hac vice arrogate to itself the prerogative of omnipotence, and hang the pirate on the land as well as of the water. Further than this it could not have been intended our statute to apply.

But here the alleged act was done in the territory of the Russian Empire, a regularly organized and acknowledged supreme government. The act of embezzlement if any was against their sovereignty. That was supreme within its territorial limits and in its very nature, and in fact is exclusive. There cannot be two sovereignties supreme over the same place at the same time over the same subject-matter. The existence of theirs is exclusive of ours. We may exercise acts of sovereignty over the waters of oceans or of land but we must necessarily stop at the boundary of another.

The allegation of an act done in another sovereignty, to be in violation of our own, is simply alleging an impossibility, and all laws to punish such acts are necessarily void.

State vs Carter, Supreme Court of New Jersey. Reported in 3 Dutcher, 499. Beale's criminal cases, p. 407 9.

(To be continued.)



U.S. CONSULAR COURT.

Shanghai, 17th September.

Before The Hon. John Goodnow, Consul-General.

ANDREW AND GEORGE v. S. H. COMYOCK.

Mr. A. S. P. White-Cooper and with him Mr. A. M. Latter appeared for the plaintiffs and Mr. G. F. Curtis appeared for the defendant.

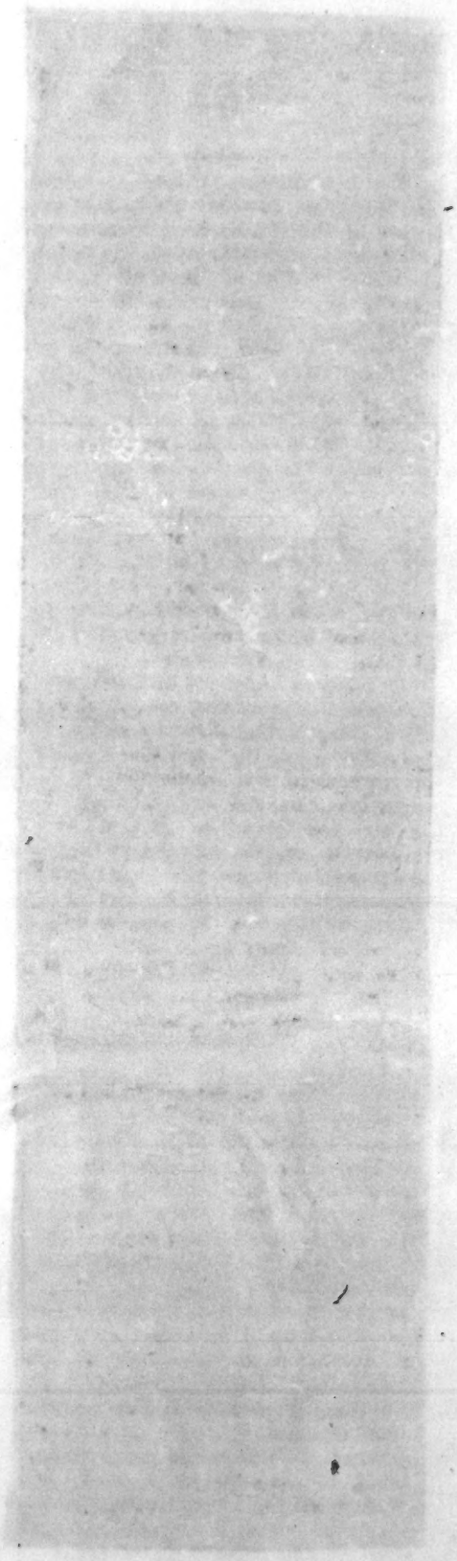
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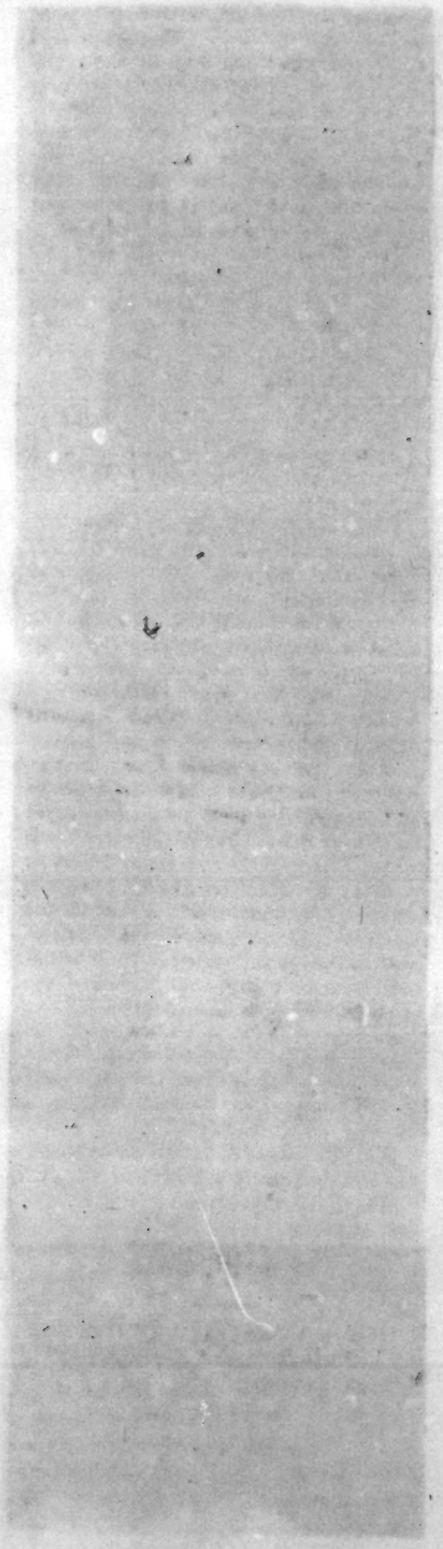
Mr. Latter said he understood that Mr. Curtis objected to the jurisdiction of the Court but for purposes of argument Counsel hoped he would assume that the indictment was true.

Mr. Curtis said he assumed nothing of the kind.

Mr. Latter said he would take the indictment paragraph by paragraph but would begin with the second paragraph. Now in face of all the details contained therein could any one say that the charge did not arise practically in Shanghai? But before going any further Counsel wished to deal with the point of law under which he acted. He hoped they would admit that Bishop's Commentaries on Criminal Law was considered a standard work in the United States. He would therefore quote sections 334 and 335 6th Ed. Vol. 2 of that work, giving the history of the law of embezzlement in the United States. He wished to show for his present purposes that the English Law on the crime of embezzlement was practically the foundation of the American Law. The object sought for was to make embezzlement a statutory offence. With regard to the embezzlement alleged in the first paragraph of the indictment the whole nature and point of the embezzlement was that the original receipt of the money was lawful. There was no criminality in the defendant's having collected the money in Port Arthur. He would have committed a breach of duty if he had not collected the money. The first possession of the money being lawful the act of embezzlement must be inferred from his subsequent conduct or admission. The embezzlement commenced with his refusal to account, and therefore in this case, it being his duty to pay over the monies in Shanghai, the actual embezzlement commenced at the moment when he refused or was unable to pay over or to properly account to his master. Counsel then quoted R. v. Murdoch (1851 21 Law Journal, Magistrate's Cases p. 21.) R. v. Taylor and R. v. Hobson cited in Russell on Crimes (Vol 12, pp. 466, 470, 471) In all of these cases it was decided that in both the place of receipt of money and the place of accountin for the money prisoner could be tried for embezzlement. Counsel then referred to the common ground that failure to account was taken as evidence of embezzlement or as prima facie evidence. The real act of embezzlement was when the man was called upon to pay and refused to pay. He was supposed to turn over the money at the regular and proper time. Counsel then cited a case reported in 30 Law Journal 1860, where the gist of the evidence was the failure to hand over the money and this was held to be sufficient proof of embezzlement. What was stated in paragraph 2, of the indictment amounted to an act of embezzlement committed in Shanghai. The same argument applied more strongly to paragraphs 3 and 4. When defendant delivered his account in Shanghai he was not charged with receiving the money but with not paying it over. In paragraph 4 it was alleged that defendant had paid three sums of money at Port Arthur on behalf of the firm and had handed in accounts to that effect in Shanghai. Such was not the case and the offence consisted in his stating that he had paid the money and thus fraudulently obtaining credit for it from his employers.

Mr. Curtis pointed out that the Counsel for the prosecution had not addressed himself to the plea of jurisdiction at all but confined himself to quoting old English cases dating back as far as 1850, and which had reference to offences committed on British soil and the question of jurisdiction raised did not go further than the surrounding counties. This had no bearing on American Law at all. There had been considerable evolution in the law since 1850 and Counsel had given a mistaken definition of the law of embezzlement. If he would read Bishop on Embezzlement he would find it to be a different thing. The indictment was ambiguous, loose-jointed and indefinite. The crime of embezzlement consisted of an element of appropriating to one's mind and when a man made up his mind to appropriate then and there the offence was committed. In this case if there was any offence it must have been committed at Port Arthur and not when the man came down to Shanghai.





In other words if the money was sent to Port Arthur and misappropriated there and when the account was made here, to say that the embezzlement took place here was purely absurd. He contended that embezzlement occurred when the man made up his mind, and at the moment when the money was appropriated and not when the account was rendered.

His Honour said he would now pass on to the second indictment.

Mr. Curtis said that he would demur to para. 2 as no demand for the money had been made. The indictment was in a measure argumentative and that circumstance alone made it bad. It was impossible to Prove embezzlement without showing that payment had been demanded and refused.

Mr. Latter quoted Archibald on Indictments in which no mention was made that there should be a demand for the money.

His Honour said the indictment in question must be made more specific. He went entirely by the Common Law which was the great English law before the Revolution. The indictment must be made before 24 and 25 Victoria. Under the Common Law, it was necessary in the case of indictment to state specifically some article embezzled but now under 24 and 25 Victoria it was sufficient to allege valuable security, but the new Act did not apply to the U. S. The statute under the Common Law must specify the nature of the property embezzled. It was not sufficient to prove that a cheque had been taken unless it was proved that the cheque had been cashed and the money used by the defendant. That was his decision as regarded paragraph 2 With regard to the other paragraphs he reserved his decision.

Mr. Curtis said he would object to any amendment to the indictment.

The Court then rose.

LAW REPORTS.

U.S. CONSULAR COURT.

Shanghai, 22nd September.

Before the Hon. John Goodnow, Consul-General.

RANGER V. COMSTOCK.

Mr. A. M. Latter appeared for the prosecution and Mr. G. F. Curtis for the defence.

Defendant by his Counsel having demurred to the jurisdiction of the Court, his Honour gave the following decision this morning on the question raised.

JUDGMENT.

The jurisdiction of Consular Courts is fixed by Section 4084 Revised Statutes and is limited to the country where the Court is situated. In order to avoid conflict of jurisdiction, the jurisdiction of each Consul acting judicially is limited to his consular district. In the case of the estate of the late Consul Jones at Chinkiang the Department of State said: "The Consul at Chinkiang has no jurisdiction whatever over any property not within his consular district." In the case of R. Toulmin charged with an offence committed in the Canton district it was held that an application for change of venue from that district could not be considered. An offence to be justiciable in this Court must be committed in the consular district or on a vessel coming to this port.

Indictment 1 charges that defendant admitted in Shanghai receipt of certain money in Port Arthur and did not pay it over but then and there fraudulently embezzled it. Embezzlement implies intention and act. The act evidences the intention. Embezzlement takes place where the party having in his possession property belonging to another appropriates it to his own use by not delivering it to the rightful owner on lawful demand or at the customary time and place. In this case Mr. Ranger in his affidavit, alleges that certain money was received in Port Arthur, that defendant was directed in writing to remit and pay over the money. This he did not do but came to Shanghai where Mr. Ranger alleges an accounting was held and the amount of the shortage fixed. The accounting cannot be held to fix the place of the offence. The offence alleged in this case must be held as taking place in Port Arthur. It is therefore not justiciable here.

The same reasoning applies to Articles 3 and 4 although these are stated in negative form. The amounts said to be falsely charged in account were, it is alleged, collected at Port Arthur —not remitted—and the entire transaction as alleged was at Port Arthur. Jurisdiction when Articles I, III and IV does not lie in this Court.